1876-004
Lee Co

Chancery Causes: Admr. of Robert Boucher &c vs. Admr. of Robert M. Ely &c

Hambden, Hoskins, McPherson, Butcher, Tom~, Milly~, Sela~,
Mattison~, Wireman, Brown, Martin, Fulton, Murphy, Hunter, Brent,
Thomas~, Milia~, Warrick~

CA-Debt
T-Property
Slavery

To the Honorable Henry J. Morgan Judge of the County Court of Lee County Virginia

The Bill of Complaint of Charles L. Hamblen Sheriff of Lee County and as Such administrator of the estate of Robert Boucher deceased and Polly Hoskins Creditors of the estate of Robert M. Ely deceased who Sue for the benefit of themselves and all other Creditors of the estate of Robert M. Ely deceased humbly Complaining respectfully represents That one Robert Butcher late of this County departed this life some time before the late Civil war about the year 185 leaving a large and Considerable estate Consisting of land Slaves and other personal property and money and afterwards one Robert M. Ely became the administrator of his estate and as Such took possession of the Same but it does not appear in the Clerks office that any appraisement bill or Sale bill of the decedents estate or any Settlement of his administration account as Such was ever returned to or filed in the office So that in the absence of the Sale bill and appraisement bill and Settlement of his administration account as administrator the amount which went into the Said Administrators hands as assets of his decedents estate will have to be ascertained by other evidence which your Orators allege to be a large amount which the Said administrator Robert M. Ely in his lifetime nor the Said Joseph McPherson Since his death have never accounted for either to the heirs or personal representatives of the Said Robert Boucher deceased but Still owe the Same And your Orators will here State that on the 16th day of November 1860 the Said Robert M. Ely deceased acting as Commissioner of the Court Sold to the highest bidder on Six months time the following Slaves that belonged to your Orator Polly Hoskins and the other heirs of Robert Boucher deceased to the following purchasers and at the following prices to wit

Tom Bought by Daniel Litterell for $675.00 and

Milly and Child Bought by William Woodson for $1265.00 and Sela a Girl about 8 years old bought by George M. Ball for $635.00 and Mattison a boy about 5 heirs old bought by David Chadwell Sr. for $505.00 the Aggregate amount of these Sales amounted to $3080.00 on the 16th day of November 1860 and were due 6 months after that date and then Commenced drawing interest as will appear by a Copy of the said Robert M. Ely's report of the Sale, herewith filed marked (A) Your orators Charge that the proceeds of this Sale went into the hands of the said Robert M. Ely as Committioner and he received the money therefor and he has never accounted to your Oratrix Polly Hoskins nor to the other heirs for the same nor has his personal representative done so since his death and the said Polly Hoskins here alleges that She is and was an heir of Robert Bucher deceased and the owner of Elisha Bucher's interest by purchase & assignment in said estate and was entitled to the proceeds of the Sale of such negroes and was the owner of her part & Elisha's part of said slaves and Your Orators further Charge that the said Robert M. Ely received $60.00 for the hire of the negro Tom which he has never accounted to Col Wm S. Marye's estate and heirs for and they further Charge that he received $180.00 from D. M. Brent for the hire of said Tom for 2 years which he, or his adm'r. has never accounted to the estate and heirs for. And Your Orators further Charge that they through A. Hunter at Hat Lick #1 Kentucky paid William S. Ely Agent and attorney for Robert M. Ely between $200.00 and $300.00 which the said Robert M. Ely nor his adm'r. has never accounted for to the said Robert Bucher's estate or his heirs Your orators will here State that about the year 1864 the said Robert M. Ely departed this life and One Joseph McPherson was appointed as his administrator and has never yet paid any of the Claims due from the decedents estate to Your orators but refuses to do so and your Orators will file if necessary either before a Commissioner or this Court if required further accounts of their Claims against the decedents estate than what are embraced in this bill but they deem it unnecessary to do so now as they show a sufficiency in this bill on which to found a Creditors bill for which this is intended. Your orators allege that the Adm'r. of R. M. Ely deceased has not made a Settlement of his administration account in the last Twelve months nor at any time. And they allege that by reason of the said R. M. Ely's becoming the administrator of the estate of Robert Bucher dec'd and selling the negroes aforesaid and the Conversion of the proceeds of the Sales and personal assets to his own use the said Chas. Lee Hamblen as adm'r aforesaid and the said Polly Hoskins as heir & distributee aforesaid, and part owner of said Slaves in her own right by purchase aforesaid, are Entitled of said Robert M. Ely's estate and have the right to come in equity for the enforcement of their Claims for the benefit of themselves and others and in this case it is their right when the Decedent Robert M. Ely Defendants failed to return and file in the Clerks office any evidence by way of a Settlement of his administration account as adm'r. or by way of Appraisement or Sale bill that would show what assets went into his hands to call upon the said Joseph McPherson his adm'r. and his widow Margaret Ely who is to be also a defendant to discover what amount of assets went into the hands of the said Robert M. Ely adm'r of Robt. Bucher as aforesaid. Your Orators will further State that the said Robert M. Ely left at his death a widow Margaret Ely and a Grandson Robert M. Ely who is his only heir and is under 21 years of age. And he also left a large and valuable landed estate lying and being in the west end of Lee County and some personal property all of which can be subjected to the payment of the Claims against his estate so that the estate, real & personal is much more than sufficient to pay all the debts that will be brought against it.

Now the object of this bill is to have a Settlement of the estate of Robert M. Ely deceased and a Settlement of the said Joseph McPherson admr of R. M. Ely deceased's administration account and to Convene the Creditors of said estate and ascertain the outstanding debts against the estate & to inforce the payment of the same and to discover the amount of the personal assets that went into the hands of Robert M. Ely deceased as admr of Robert Boucher deceased and also to discover what amount of personal assets is yet in the hands of Joseph McPherson admr of R. M. Ely deceased and to subject the real and personal assets to the payment of the ~~same~~ Claims against the estate according to their respective rights and interests.

And Your Orators being without an adequate remedy at Law and ~~yet~~ relievable in a Court of equity their prayer therefore is that the said Joseph McPherson admr of the estate of Robert M. Ely deceased and Margaret Ely and Robert M. Ely Jr. widow and heirs of R. M. Ely dec'd. may be made the partys defendant to this bill and that they be Summoned and required to answer the same upon their oaths and that a guardian ad litem be appointed to answer for the infant Lieut. Robt. M. Ely Jr. and that the said Joseph McPherson admr &c. of Robert M. Ely dec'd. discover what personal assets went into his decedents hands that belonged to the estate of Robert Boucher deceased and also that he discover what amount of personal assets went into his hands as admr of R. M. Ely dec'd. and that upon a hearing of this Cause a decree be entered requiring a Settlement of the decedents estate and that the admr. be required to ~~file state and~~ settle his administration account and a commissioner be appointed to Convene the Creditors and ascertain the outstanding Claims against the same and especially the Claims due the Admr. and heirs of Robert Bucher deceased and that a Comr. be appointed for this purpose and that the real and personal assets be marshalled and subjected to the payment

of the Same and that the Said Claims be paid To the parties who shew themselves entitled to them and Such other further And General relief be extended to your Orators as may be Consistent with equity and justice and best Suited to their Case and your Orators be allowed to Supply the absence of the Appraisement And Sale bills & Settlement by proving what assets went into the hands of Robert M. Ely dec'd as administrator of Robert Boucher dec'd. May the Commonwealths writ of Spa issue directed &c.

Sharp & Miller.

Clk Co Court		$11.17
" Cir Court		Y. C's Docket
	4	15.00 1875.
	5	1.50
Comr	Morgan	45.00
"	Colson	10.00
	U. S. L.	5.00
		$91.72
Estimated Costs		5.00
		$96.72
Comr Morgan		7.50
		$104.22

C. L. Hamblett Admr &c.
& others

vs.

Bill in Chy.

Joseph C. Phelps
L. Admr. &c. & others

1872 January Bill filed, Spa
Executed & Decree Nisi,
" Feb Decree Nisi Contd & Cont
" March Continued
" April Cause set for hearing
by Plaintiff
" May June July Continued
" Aug. Sept & Oct " "
" 2 do Decree for Comr "
" Dec. Continued
1873 Jany. Feb. March April Cont.
" May, June & July Cont.
" Aug 1st Transferred to Cir Ct
" Aug Term Contd
" Oct " Decree & Cont
1874. Nov Term Cont.

C. L. Hamblen adm
vs
Joseph McPherson adm etc } In

The defendant Joseph McPherson admin
istrator of the Estate of Robert M Ely dec'd
comes and for plea says that the plain-
tiffs bill is not sufficient in law.

Hogan & Rhea
Sols for Def

Jr. Wm. Pheasanden

adv } Semmes

C. L Hamilton

To Hon. John A. Kelly, Judge of the Circuit Court of Lee County in Chancery Sitting:- The demurrer and answer of Robt. M. Ely Jr. to a bill filed in this Honorable Court against him etals by Charles L. Hamblin Admr. & others by John B. Hoak, his Guardian ad litem.

Respondent says the Plffs' Bill is not sufficient in law & of this he prays Judgment of the Court &c. But if any other or further answer is necessary Respondent says, It is true that Robt M. Ely, who was the Grand-Father of his wards, and whose sole heir his ward is, was at his lifetime the Admr. of one Robert Boucher, & that one of the Plffs Polly Hoskins & Elisha Boucher filed a Bill in the County Court of this County to sell & partition Negroes &c of certain slaves belonging to them, which cause, as your Respondent verily believes, is now pending in this Honorable Court, and in which the said Robt. M. Ely Jr. was appointed a Commissioner to sell said slaves belonging to said Boucher's estate, and which he did sell, and make report thereof to the said Court on the 14th July 1861, as appears by Plffs' Exhibit (No) filed with said Bill. But your Respondent believes from the facts before him, as stated by the Plff Polly Hoskins, there is nothing due her, or the said Elisha Boucher. A note marked (No 1) will be found with this Answer, & is prayed to be considered as part thereof, executed by said Polly Hoskins on the ___ day of July 1860, with Robt. M. Ely dec'd as her security, to Wm. S. Martin for $700- this being found among the said Robt M. Ely dec'd's papers, as your Respondent learns from the Counsel of Jos. McPherson, who is the Admr. of

of said decedent, it is supposed that he, in his lifetime, paid the sume for said Polly Hoskins. Your Respondent also learns from said Admrs (as aforesaid) Counsel that he found a tax-ticket among the papers aforesaid of $5.18 against the said Polly Hoskins for the year 1859, and which he has reason to believe was paid by said Ely for the said Polly Hoskins. Said ticket, marked (B1) is also filed herewith as part of this answer. Your Respondent also learns from the Counsel of said Robt. M. Ely's admrs that among the papers of said Robt. M. Ely Admr of Boucher & Commissioner aforesaid was found a receipt by the agents of the said Polly Hoskins for $1796.62 (which, by reference to Plff's Exhibit (F) will be seen to be the amount of a negro woman & child) to William Woodson, and attached to this receipt is an obligation by said agents G. H. Hoskins & A. D. Woodson, whereby they bound themselves to pay back to the Commissioner, in the event this sum was more than the due proportion of the said Polly Hoskins & Elisha Boucher. This paper is herewith filed marked (B 1) and is prayed to be considered herewith. These are the only facts known to your Respondent tending to absolve his ward from the claims set up against him. But, his ward being of tender years, and thereby prevented from advising your Respondent of any facts material to his defence, he throws himself upon the tender mercies of the Court - the peculiar Guardian of infants - and prays that the Plffs be held to strict proof of their claims, and if their rights could have been litigated in

in the cause now pending in this Honorable Court, to which reference is here made, then, that the Plffs be compelled to dismiss this cause, and pursue their remedy therein - And your respondent, having now answered as fully as seems necessary or proper, prays hence to be dismissed with his costs.

John B. West.

Guard[n] ad litem for Robt M. Ely Jr.

Sworn to before me by John B. West Dec. 2nd 1872.

James Worsham.

R. W. Ely Jr

ads Answer of Guard'n
ad Litem

Chas. L. Humbert, Admr.
&c. & others.

Guard'n ad Litem's fee $5.00

Polly Hawkins vs Joseph McPherson admr et al

and

Elisha Boucher et al vs William Boucher et al

In Chy.

These causes came on again to be heard on the bill answer and exhibits read in the causes, and the 2nd report of Comr Morgan, to which there are no exceptions, and upon the motion of the deft McPherson admr for a re hearing & the opening of the decree of the 2nd December 1874 & the argument of counsel. On consideration whereof the court overrules said motion, and the said 2nd report is confirmed. And the principles of these causes except as to the sale of the slaves to George W Ball having been heretofore fully settled the court now adjudges, orders and decrees that (as the purchaser Ball took into his possession the slaves purchased by him, exercised ownership over them and made an absolute disposition of them, and all the parties in interest treated the sale as absolute) the said sale shall be held to be as absolute and binding as if the same had been duly confirmed by the court. And the administrator of R. N. Ely decd is directed to proceed to the collection of the bonds of the said George W Ball for the price of said slaves. And it is now further adjudged that the decease Ely as commissioner should be charged with the interest on the sum of $812 02/100 the balance reported in his hands as collected (being balance of said $1447 02/100 after deducting the Ball debt) from the 1st day of April 1865 till paid, it being admitted that the parties entitled to the fund resided beyond the Confederate lines during the late war. And it appearing from Comr Morgan's first report & from the decree of the 2nd Dec 1874 that of the sum of $1447 02 balance of sum in the hands of deceased Ely as of the date of 16th May 1865 (including said Ball debt) Polly Hawkins is entitled to $353 27 with

its just proportion of interest subject to a credit of $228.80
with interest from 16 May 1861: that Elisha Bowker (one of sd pltffs)
is entitled to $28.72½ thereof with its just proportion of interest:
that Joseph McSpadden and wife are entitled to $45.2.54 2/3
with like interest: that Wm Bowker is entitled to $60.2.24 1/3
with like interest: and the Commissioner having reported that
Mrs Polly Cole one of the parties in the 2nd named cause is dead
and that her two children are entitled to $28.72½ with like
interest, but it being now admitted in open court by the
parties by counsel, that Branch H. McCole one of the defendants
to said suit and husband of said Mrs Cole is alive, and it
therefore appearing that said Branch H. McCole, & not the
children is entitled to this sum, it is further adjudged that
the defendant M. Pherson out of the estate of his intestate
in his hands unadministered pay the said sum of $212.02 with
subject to a credit of $228.80 with interest thereon decreed to Polly Hawkins as aforesaid
the interest thereon from the 1st day of Apl. 1865 till paid
pay to Elisha Bowker, Branch H. McCole, Joseph McSpadden
& Elizabeth his wife and William Bowker the same
proportion of the sums herein severally decreed them as
that received by Polly Hawkins upon the $353.27 100ths not
due her
~~as aforesaid decreed her~~ (of which said sum it appears she
& interest thereon, as hereinbefore decreed her.
has received $228.35) & if after the parties have been thus
equalized, there remain any thing of said sum, he will pay
it pro rata to all aforesaid parties & said Polly Hawkins, and the
said Administrator will pay pro rata to all said parties the proceeds of
the Ball debt as the same is collected.

And as the first of these causes was medicly brought & the court
has doubts as to whether, in the form in which it was brought
it could have been sustained, the court adjudges the cost in it

against the plaintiffs. But as the parties by consent suffered the order of account to be entered in these causes, the plaintiffs shall pay one half only of the cost of the account, the administration account being now only brought into this cause but the account of sales of slaves being proper. The defendants M^c Pherson as administrator and Ch. S. Hamblen a.d.m.c.t.a administrator of Ball shall out of assets in their hands pay the costs of the 2nd report each paying one half, and these causes be stricken from the docket with reservation of the right to any party by motion after notice to the adverse party to enforce this decree.

Polly Martins vs Joseph McPherson Admr
and 2 others
Elisha Bowden et al vs Wm Bowden et al
March Term 1876

Entered on Ex Book
page 5-21 & 5-22
Jas Worr, Clerk.

Entr
Jr Bk K
Appl. 6/76

Polly Hoskins for Vc. Plaintiff.
against
Joseph McPherson Admr. &c. & others Defts.
Elitha Bucher & Polly Hoskins Plffs. } Decree in Chy
against
William Boucher & others Defts.

On motion of the plaintiffs these Causes came on again to be further heard together upon the papers formerly read in the Causes, and the report of Henry J. Morgan, who was appointed a Special Commissioner, to take an account in the first named Cause, and the exhibits therewith, and was argued by Counsel, and it appearing to the Court, that the report of Henry J. Morgan Comr. had been filed in this Cause, for more than ten days before this term of the Court, and no exceptions being filed to said report; it is adjudged ordered and decreed that the same be and is hereby approved and confirmed: On Consideration of which the Court is of ~~the~~ opinion and does hereby declare that the plaintiff Polly Hoskins in her own right and as attignee of Elisha Bucher is entitled to the Sum of $353.87½ with interest ~~interest~~ on the Same from May 16th 1861 till paid and which She is entitled to receive out of the Sum of $1447.02 and interest thereon from Same date which was part of the money the Slaves Sold for by Robert M. Ely as Commissioner, and which with the interest thereon it does not appear that Said Robert M. Ely or his personal representatives has paid out and the Said Sum of $353.87½ & interest thereon thus found to be due ~~the~~

plaintiff Polly Hopkins She is entitled to receive
ratably in proportion as the negro Sale money
has been and may be Collected, the Court would now
order to be paid to her by the defendant Jos. McPherson administrator
of decedent Ely, if it sufficiently appeared that said decedent R.
M. Ely had collected the whole amount of the ~~s~~ notes given
for the negroes sold by him. But as it appears from
the proceedings in the record ~~of the~~ named cause that the
price of a negro slave purchased by Geo. W. Ball has not
been paid, and that the payment thereof is resisted, it does
not seem proper to decree against said decedents estate the
payment of ~~that~~ the price of said slave, to wit $635, but
that this sum should be deducted from the bals. reported against
said decedent of $1447.72, which would leave only the sum of
$812.00, out of which sum the Plff. Polly Hopkins would be
entitled to $228.35, with interest from 16th of 1861 till paid which the said McPherson is directed to
pay to her, ~~with~~ out of any assets of her intestate in his hands unadministered
unless there be other sums of the price of said slaves outstanding and
uncollected by said decedent Ely or his said administrator McPherson.
And the ~~circum~~ facts attending the sale of said slave purchased by said
Geo. W. Ball not being sufficiently disclosed to enable the Court to pass upon
the question ~~of his~~ raised in the petition of his ~~admin~~ executrix, with a view to a
final decree in this cause, it is now adjudged, ordered & decreed that
Commissioner H. J. Morgan do enquire and report whether or not said
decedent R. M. Ely or his personal representatives has collected all the
purchase money of the slaves sold by ~~him~~ said decedent, under the decree
in the Record named cause, except the Ball debt, and if not all how much.
He will also report such facts attending the sale of the slave to said
Ball as he may deem pertinent, or as may be required by any party, to enable
the Court to pass upon the petition of the said executrix. And he will
give reasonable notice of the time and place of making these enquiries to
the parties in interest, and the cause is continued.

Polly Hoskins Plff.

vs. } Decree

Joseph McPherson Admr &c.
& others

and

Elisha Boucher & Polly Hoskins

vs. } Decree

Wm. Boucher & others

Entered
Jn. D.K.
Dec. 2. 1874

Charles L. Hamblen Admr. & others Plffs
against
Joseph McPherson & others Defendants
In Chy

This Cause Came on this day to be further heard upon the papers formerly read in the Cause, and the Report of James B. Colton a Commissioner appoint by a former decree in this Cause to take an account, & the exceptions to said report and was argued by Counsel. and by Consent of the parties this Suit So far as Charles L. Hamblen Administrator of Robert Boucher deceased is Concerned is dismissed by him and the Defendants recover of him their Costs by them thus far expended and by further Consent of parties this Cause is to proceed in the name of Polly Hoskins for the benefit of herself and the other Creditors of the estate of Robert McEly deceased and ~~the Court Considering the Said Commissioners report and the exceptions thereto the Said exceptions are Sustained~~ and by Consent of parties the Said report is recommitted to Comr. Henry J. Morgan to be restated by him and report on Such matters as he may deem pertinent or required by any of the parties to be Stated by him and on the further motion of the Defendants who allege that Complainant Polly Hoskins is a non resident of this State it is ordered to be entered of record that Security for Costs is required of her and the Cause is continued.

C. L. Hamblen admr.
for &c.

vs. } Decree

Joseph McPherson
admr. &c. & others

Entered order Book page
330.

James W Orr. clk.

Enter
Jno. A. K.
Dec. 2. 1873

Charles L. Hamblen adm. &c. Plffs.
& others for &c.
against
Joseph McPherson adm. &c. Defts
& others.

} Decree for acct

On the motion of the plaintiffs by their attorney John B. West was appointed Guardian ad litem to appear answer and defend in this Cause for Robert M. Ely the infant defendant who asked leave to file his answer which being granted the Same was accordingly filed and thereupon this Cause came on this day to be heard upon the bill, & exhibits therewith of the plaintiff and the Demurrer thereto and the answer of John B. West Guardian ad litem for the infant defendant and was argued by Counsel and on Consideration of all which it is adjudged ordered and decreed that the Demurrer aforesaid be overruled and leave is granted the Defendants Joseph McPherson and Margaret Ely to file their Answers hereafter and it appearing necessary that an account should be taken in this Cause of the Several matters in the bill mentioned ~~upon~~ in order to ascertain the facts necessary upon which to found a decree it is therefore adjudged ordered and decreed that James B. Colson be and is hereby appointed a Special Commissioner for the purpose who is hereby directed in the first place to take State and adjust the administration account of Robert M. Ely late administrator of the estate of Robert Boucher deceased including therein the price of the Sale of the negroe Slaves referred

to in Complainants bill and in doing So he will ascertain and Show the various Sums of money and personal property that went into his hands as Such administrator and Commissioner for the Sale of the negro Slaves and also the amount of his disbursements as admr. & Commissioner and the amount of funds in his hands yet to be distributed if any. Then he will take State and adjust the administration account of Joseph McPherson administrator of the estate of Robert M. Ely deceased and in the third place he will ascertain the outstanding debts due from the estate of Robert M. Ely deceased to Such persons as will make ~~xxx~~ written affidavits of the justice of their Claims and establish the Same by other legitimate evidence and will Come in and bear their share ratably of the Costs of this Suit. The Said Commissioner will give 20 days notice by posting the Same of the time and place of taking his account and will report to this Court and the Cause is Continued

Chas. D. Hamilton
Admr. &c. Petitioner
vs. Decree for account.
Joseph McPherson
Admr. &c. & others

Entered & Order Book
Page 1904 171.
Jas. M. Orr, Clerk.

Entered Decree
A. B. Morgan
Nov. 23rd
1872

Charles L. Hamblen admr. &C. & others } Pl. Cmtffs
against } Decree in Chancery
Joseph M.C Pherson admr. &C. & others } Defendants

On motion of the plaintiffs Auburn L. Pridemore is appointed Guardian ad litem to appear answer and defend for Robert McEly jr. the infant Defendant who asked leave to file his answer which being granted the same is accordingly filed and thereupon the cause came on this day to be further heard upon the papers formerly read in the cause and the answer of the infant defendant by his Guardian ad litem and the Commissioners report of James B. Colton who was heretofore directed to take an account in this cause and the exceptions to said report and was argued by Counsel On Consideration of all which it is adjudged ordered and agreed by the Consent of parties by their Counsel that Henry J. Morgan a Commissioner of this Court be and is hereby substituted as Commissioner in the place of James B. Colton to take the accounts make the settlements and perform the duties required by a former decree in this cause and said James B. Coltons report is hereby recommitted to him the said Henry J. Morgan who is directed to make new settlements take new accounts without regard to what has been done by said Comm Colton and performe all the other duties assigned in said former decree and report to the next term of this Court and the cause is Continued till the next term

Charles L. Hamblen
Admr. &c. & others

vs. Decree in Chy.

Joseph McPherson
Admr. &c. & others

Virginia Lee county to wit.

This day Miriam E. Wiseman personally appeared before me the undersigned, and made oath that, upon a copy of a rule executed on him in the Chancery cause of himself against E. F. Boucher etals upon, as returned, on him by Thomas L. Brown, D.S. Affiant has no recollection of the service thereof but supposes he must have mislayed the same so that the matter had passed out of his mind - The intervention of the late war, soon after the institution of said cause, the death of his counsel, and his advanced age, obliterated the facts from his mind - and it was only at this term of the court, when shown the papers by P. E. Johnson, when his recollection was given and he can now state positively that Commissioner Campbell, no other person for him has ever paid the sum of money in said cause decreed him.-

Given under my hand this 5th. day of April 1876.

Carr T Bailey

Notary Public for Lee County Va.

D. L. Wireman

vs } Affidavit

E. G. Breckenridge

The, within, report is excepted, to because the same was not made out, & signed by the commissioner to whom the same was directed—
2ⁿ Because the affidavit does not state the account which it attempts to prove, but is attached to the foot of an account, on a seperate piece of paper, to which it does not specifically ~~refer~~ refer.
3. Because, the commissioner allowes to Polly Hoskins an amount of $300. and interest which is shown by him, to be due to Elisha Bucher without any evidence, of Elisha Buchers sale and transfer to her.
4ⁿ Because the commissioner, states that it is admitted that Polly Hoskins is an heir of Bucher deceased, and takes no proof thereof—a thing this accepter does not admit.
Hagan & Parkinson

Chancery Ct. Hamilton
Admrs. &c.
vs.
Comm's Report.
Foster & Wilson
Admrs. &c. &c.
Filed Nov 28th 1873.
James M Ann Clk

Comr. Fees, B. Collins Esq
For this report $10.00

4ⁿ The commissioner allows the claim of Polly Hoskins on insufficient evidence— 5ⁿ The account is allowed to Polly Hoskins, who has no legal right to receive it, but ~~who is to be compensated~~ should have it due at all it should go to the personal representative of Robert Bucher deceased. Hagan & Parkinson
Nov. 28th 1873.

To the Honorable John A. Kelly Judge of the Circuit Court of Lee County.

Pursuant to a Decree of the County Court of Lee County made and entered in the Cause in Chancery then pending in Said Court at the november term thereof 1872 of Charles L. Hamblen Admr. of the estate of Robert Boucher decd for the benefit of himself and others Pltfs against Joseph McPherson admr. of the estate of Robert M. Ely decd. and Margaret Ely and Robert M. Ely Jr. Defendants I as Special Commissioner appointed by Said Decree in the Said Cause proceeded at my residence on the first day of February 1873 in Said County of Lee to execute Said decree and to take the accounts in Said Cause and to perform the other duties required of me by Said decree after giving due notice of my proceedings and of the time and place of my proceedings by posting notices of the Same as required by Said decree and by especially giving notices of the Same to the Defendant Joseph McPherson more than 20 days before the 1st day of February 1873 and having performed the duties assigned to me in Said Decree I hereby report as follows to wit;

I posted Copys of the notices herewith filed marked (A) at Deft McPhersons Store & other public places in Said County of Lee and Showed the Same to Joseph McPherson admr &c the Defendant more than 20 days before February 1st 1873 as required by Said decree. I then proceeded at my residence in Lee County on the 1st day of February 1873 to take State & adjust the administration account of Robert M. Ely late administrator of the estate of Robert Boucher deceased including therein the price of the Sales of the negro Slaves referred to in Complainants bill & in doing So I have ascertained and Showed the

the various Sums of money and personal property that went into his hands as administrator and Comr. + so far as appears to me I have Stated in the account herewith filed marked (B) by which it will be seen that there was in the Said administrators hands had he been living on the said 1st day of February 1873 $3080.00 of principal and $216.95 of interest this includes what went into his hands from the Sale of the Slaves which he collected as well as what is yet uncollected.

In addition to this amount there are other Sums of money and assets that went into the adminstators hands but the complainants did not produce any proof of the fact and I therefore only take an account of what appears to me as proved by the Copy of the appraisement bill and the Copy of the Comrs. report of the Sale of the Slaves. I understand the Comr. Robert M. Ely bought out all the heirs interest in Robert Buchers estate ~~xxxxx~~ except the interests of Polly Hoskins and Elisha Bucher which appear yet to be due as the Defendants did not attempt to set up any payments or offsets against their Claim. This being known to me I did not deem it necessary to prove any additional Charges against Robert M. Ely as late admr. + Comr. as there appears already more in his hands unaccounted for as ~~xx admr.~~ + Comr. than will pay the Claims against his estate and it was not insisted on by Complainants in the present attitude of my proceedings as they, the defendants did not make any defense nor produce any papers or evidence before me. I would therefore recommend that the Charge against Robert M. Ely as Said administrator and Comr. be abated except so far as will cover Polly Hoskins Claim hereby allowed in her own right and as purchaser of Elisha Bucher they being admitted to be heirs of Robert Bucher deceased and as Such were entitled to two Sixths of Said estate and the negro Sale money and as a part liquidation of this Charge I would Say it would be proper to assign over to Said Polly Hoskins the debt on George W. Balls estate it being that part of the negro Sale money which is uncollected.

I then proceeded to take State and adjust the administration account of Joseph McPherson admr. of Said Robert M. Ely deed. which Settlement is herewith filed marked (C) by which it will appear that I have only Charged him with what I Charged his decedent that is for the amount of the Appraisement bill and the money and debt he Sold the negroes for as Comr. the debt being for $635-00 and interest thereon against George W. Balls estate, the balance he Collected.

I then proceeded to ascertain the outstanding debts due from the estate of Robert M. Ely deceased to Such persons as would make written affidavits of the Justice of their Claims and establish the Same by other legitimate evidence and there being Some Claims against Said estate but they all appear to have been Settled or waived except the Claim of Polly Hoskins in her own right and as purchaser of the interest of Elisha Bucher in Robert Buchers estate they being admitted to be Children and heirs of Said Robert Bucher. The Said Polly Hoskins filed her Claim under oath as required by Said decree which is herewith filed marked (D) by which it will appear that She Charges Several items in Said account all of which I have no doubt can be proved but She having failed to make any proof I have only allowed her

the item of $900.00 with interest thereon from the 15th day of August 1861 the day the negro Sale money commenced bearing interest until the 1st day of February 1873. This item is much less than her and Elisha's, joint interests in Said ~~estate~~ negro Sale money but it is all She claims and I do not feel at liberty to overgo it. I therefore make only one outstanding debt against Said estate and that is shown by the account marked (E) of R. M. Ely deceased herewith filed and I did not deem any proof necessary to establish this claim but the proof to establish that Polly Hoskins and Elisha Bucher were Children and heirs of Robert Bucher deceased and part owners of the Slaves that were Sold by Robert M. Ely as Commissioner but these facts are all admitted by the partys and require no evidence to Sustain them. From the account of Polly Hoskins Claim Sworn to & filed it will be Seen that her part of the estate, including the negro money, is Set down at $600.00 and Elisha's at $300.00 and I understand that this difference is in Consequence of advancements heretofore made to Elisha and this difference is intended to make her even with the other heirs. I have therefore as Polly is the assignee and purchaser of Elisha I have added the two together which make $900.00 which is less than two Shares of the negro Money alone and from this Statement of the Case it is immaterial whether or not the plea of limitation is applied or not to the amount claimed by virtue of the appraisement bill. I therefore find that Polly Hoskins in her own right and as assignee & purchaser of Elisha is entitled to $900.00 of Robert M. Elys admr. with interest from Aug. 15th 1861 and that the the debt yet uncollected of the negro money be assigned to the pay ment of this Sum and entered as a Credit on the Same when Collected at I am informed the plaintiff Polly Hoskins is, willing to receive it as a payment as far as it goes, with recourse for the balance on R. M. Ely's estate though in my opinion She would not be compelled to do So further than her proportionate part of Said debt as I am informed and in fact it is admitted that Robert M. Ely the Comr. collected all the money the negros Sold for before he died except the debt of $638.00 and interest on George W. Ball decd. The evidence of the Sale of the negros belonging to the Bucher heirs is a Copy of the report of Robert M. Ely decd. as Commissioner under his Signature which is herewith filed marked (F) the original being now on file in another Suit pending in your Court. It does not appear to me that Robert M. Ely ever made a and arrayed for Settlement of his account as Commissioner in the Robert Bucher estate nor does it appear that he ever paid off the debts due from the estate of Robert Bucher deceased otherwise than by the admissions of parties and none of the Creditors or distributees having put in any Claim except Polly Hoskins for herself and as assignee and purchaser of Elisha I must presume that they are all paid. except them It does not appear that Joseph McPherson as admr. of R. M. Ely deceased ever paid Said Claim or ever Settled his administration account nor does it appear that Robert M. Ely in his life time paid Pollys & Elishas Claim, therefore I find that Joseph McPherson admr. of R. M. Ely deceased is indebted to Polly Hoskins in her own right and as assignee and purchaser of Elisha the Sum of $900 principal with interest from the 15th day

of August 1861 till paid. I have had this account upon before me from the 1st day of February 1873 till this date to give all parties a chance that were interested in either estate or in the negroes that were Sold but none appeared before me but Complainants

All of which is this day respectfully Submitted to Your Honor this November 5th 1873,

James B. Colson
Special Comr.

Commissioners Office Jonesville Va Aug. 10th 1874

Polly Hoskins Pff
against
Joseph S. McPherson admr &c Defts } In Chancery

To the Hon. John A. Kelly Judge of the Circuit court of Lee County.

By a Decree entered in this cause on the 2nd day December 1873 the report of Special Comr. Colson, filed in the cause, was re-committed to the subscriber to be reported on by him, and by this action it would seem that all matters contemplated by the decree under which that report was made, are now open for investigation. But were it otherwise, still it seems to me, that in order to a fair settlement and adjustment of the matters involved, Read a Sort of history of all matters and things connected therewith so far as they can be gathered, should be presented that your Honor may have the aid of, both antecedent and subsequent transactions to throw light upon the immediate transactions under consideration. It sometimes happens that transactions which you are called upon to consider and interpret or construe, are difficult of solution, if you have no other guide but the naked transaction alone, unaided, by either, antecedent or subsequent dealings transactions or declarations as the case may be. In this particular case, I do not know that any question will arise, which will require the aid of antecedent or subsequent transactions in order to be thoroughly understood and properly construed, But in all such cases, so far as I am concerned, the course

here indicated, is the only one that I can pursue in order to lead my own mind to a satisfactory conclusion upon any particular question,

The Taking of this account, was set for the 2nd day of March last as will by seen by reference to an original notice hereunto filed marked (A) at which time there appeared before me as witnesses Andrew J. Fulton and Stephen C. Murphy whose depositions I then reduced to writing and now hereunto file the same marked (B) with which is also that of William S. Martin

Since that time, Mrs Hoskins has taken the affidavit of William Cox which I now mark (C) She has also taken the deposition of one Abraham Hunter, which I now file marked (D) And she has likewise taken the deposition of Thomas H. Brents and re-taken that of said Stephen C. Murphy and I hereunto file the same marked (E)

The account was not taken on the Second of March, because in fact, the parties were not ready and because some papers which was thought almost indispensable, could not then be found, and further, because some proof was desired to be had, which could not then be taken, and the matter was then continued without a day, And the above mentioned depositions having in the meantime been taken, I concluded on this 10th day of August 1874 to proceed with the said account and refute without giving either any other or further notice

Sometime before the 15th day of November 1847 one Robert Boucher, Or Butcher as commonly called departed

this life intestate, near Walnut Hill, in this County: possessed of a considerable estate, real & personal, among the latter class, some four, five, or six, valuable Slaves, and on the day last mentioned, Robert M. Ely and one Joseph Butcher (a son of said Robert), qualified as the administrators of said Robert Butcher deceased.

About the same time or perhaps a little before, Daniel Settle, Jacob Swany, and John S. Willis, appointed & raised the personal estate of said Butcher and returned their appraisement to the clerks office of the county where the same is now on file, and a copy thereof is filed among the papers of this cause, and by way of designating the same I have marked it (F); It will be seen by looking thereat, that two Slaves was included in the appraisement to-wit Tom at the value of $700.00 and Milla at the value of $400.00 making $1100.00 for the two. And it will also be seen, that the other property therein mentioned, according to the value fixed thereon by said appraisers was worth $333.87½ none of which so far as I have been able to see, was ever sold by the admrs. yet I presume the same were sold, but the admrs failed to make and return their sale-bill, or if they did so, the same is now lost so that I cannot find it in the clerks office.

By looking at the evidence of Mr Hunter (See Defts. D), it appears that he paid to William S Ely, whom he thought had become admr of Robert Butcher, the balance of a debt of about $200.00 or $225.00, which he was owing to said Butchers estate; and this debt is not mentioned in said appraisement, nor have I been able to find any inventory thereof.

The said William Ely, or Father William S. Ely, was a Lawyer and the son of said Robert M. Ely, and I have but little doubt, that the money was paid to him, not as the admr of Robert Butcher, but as the attorney of Robert M. Ely, one of said Butchers administrators.

Mr Hunter Shows further, that he paid a part of the debt contracted with Robert Butcher in his lifetime, to Joseph Butcher as one of said admrs, but he does not Know how much he so paid him. Now this evidence Shows that money to the extent of not less than $200.00 and probably as much as $300.00 or more, belonging to said estate, went into the hands of said Admrs. And when we consider as we are compelled to do, that the property Mentioned in said Appraisement, went into their hands, it thus becomes apparent, that said admrs realized assets of said estate, to the amount of some $500.00 $600.00 or $700.00

I have examined the clerks office of this county, with a view of ascertaining if possible, what disposition had been made by said administrators of these assets, but thus far, my search has proved unavailing; for I have not been able to find any settlement of those matters, or any writing or statement of any Kind relating thereto, or throwing any light thereon; So far then as the records of the clerks office are concerned, this administration matter is wholly in the dark. And so far as the personal representative of said Ely is concerned, he seems to Know nothing about it, no one so far as I have heard, seems to Know whether said assets were paid out in discharging debts owing by said Robert Butcher, or were paid by the admrs to

the heirs or distribution, or to others as their assignees.

The plaintiff in this Suit, Seeks a Settlement and adjustment of the account of Robert M. Ely and Josiah Butcher, as administrators of the estate of Robert Butcher deceased, and a distribution of such funds as may be found in their hands thereby, among the heirs at law of said Butcher, and that such distribution be made among them, with reference to the advancements made to them respectively, by Robert Butcher in his lifetime. I have no personal Knowledge myself, as to the respective ages of said heirs, at the death of said Robert Butcher, nor has that fact been brought out by proof in the cause, save from a limited Knowledge of some of them, and from other circumstances which I might give, I am inclined to think that all or nearly all, were of full age at the time of his death, and if such was the fact, How has it happened that the parties interested, have delayed so long to demand their rights, and to call for a settlement of this matter.

More than 26 years have elapsed since R M. Ely and Josiah Butcher, qualified as administrators of said Robert Butcher deceased, and during all that time the said Robert M. Ely, (while he lived) was full handed and able to pay and meet all demands against him, and his estate since his death has all the time been solvent and is still good for all just demands. And at the same time, some of said heirs, were as I am informed comparatively poor and needy, and yet such an important Settlement as this is delayed till now

and for what reason has the same been so long delayed

The said Joseph Butcher, it would seem from the evidence of Mr Fulton, died sometime between 1847 the date of his qualification as admr, and the year 1853, but the time he does not state. The said R. M. Ely died in the year 1862, or 1863. These two men and especially Mr Ely had he lived till now could no doubt have showed clearly what had been done with said funds and estate, but now that he and Butcher are both gone with them the only evidence of the disposition made of said assets, a Settlement is sought, 10. years after the death of the latter; And in the meantime, the country has gone through a fierce civil war, which in thousands of instances, resulted in the loss and destruction of valuable papers and evidence, which cannot now be supplied, and such is particularly the case with reference to those who are dead, who alone were familiar with the facts; And it is a fact known to all, who were well acquainted with said Ely that he was a man that looked closely after his own pecuniary interest, that he is the last one, who would be likely to let a matter of this sort stand unadjusted and settled, and now to proceed to adjust and state said account and to require the admr of said Ely, to show what had been done with said personal assets which would be an impossibility for him to do, --- under all the circumstances, it seems to me would be manifestly unjust, and improper, and would be nothing less, than taking from Elys estate, and giving to that of Butchers, And these considerations being all weighed & considered I am strongly impressed with the idea, that this claim is one that ought not to be entertained

That it is Stale, and now barred by the Statute of limitations, and I am so disposed to consider and treat it, and hence dismiss the Same without further consideration, and if my action in the premises, is unwarranted, your Honor can easily set it aside, and do what is right in the matter.

The said Robert Butcher at his death left 6 children his heirs at law. to wit Joseph, Elisha Jr. William, Polly Phoeba and Elizabeth Butcher, he also left his widow Nancy Butcher, Surviving him.

The said Polly intermarried with John Hoskins who departed this life, many years ago, leaving as his widow the said Polly Hoskins, now the pltff in this cause, and several children his heirs at law, but their names are unknown to me, One of whom a daughter intermarried with one Stephen L. Murphy, a witness in the cause.

The said Phoeba intermarried with a man by the name of Samuel McSpadden, and the said Elizabeth married a man by the name of Joseph McSpadden.

The said Joshua Butcher died as before Stated Some time between 1847 and 1853 leaving three children his heirs at law, to wit, Elisha jr, Alonzo D. and Polly Butcher the latter of whom married Branch H. McCole, who after having gave birth to two children, William E. and Mary J. E. Cole, departed this life.

The said Elisha Butcher Sr. Son of said Robert departed this life some time from 1855 to 1860, according to the evidence of Mr Fulton, (See dep. B) and he left three children his heirs at law, to wit, Nancy, Minerva, and Eliza Butcher.

Mr Fulton is also of the impression that not a great

while before the death of said Robert, he called around him his several children, and distributed among them, such of his property as he intended them to have, during his life, and that of his wife, and that such of his property as he then kept, including four or 5 Slaves, he intended to keep, to wait upon and Maintain him and his wife the remainder of their lives; And this impression of Mr Fulton is very Strongly Supported by the evidence of Mr Murphy (See depositions B & E) and the affidavit of William Cox (See Exhibit C).

To the affidavit of Mr Cox is an old paper is attached so much worn, and defaced to such an extent, that it is difficult if not impossible to read it all, but which he swears is a copy of an article, entered into by said Butchins heirs, and said Murphy Swears that it is a true copy of the original, which is lost or mislaid, except that the names of the heirs are not there.

This article or writing, is dated August the 15th 1846, some short time probably before the death of said Robert, and among other things, it authorizes Joseph Butcher to take charge of the lands of said Robert Butcher, rent them out, and to apply a Sufficiency of the proceeds thereof to the maintenance and Support of the widow of said Robert Butcher.

It also provides that Elisha, shall have and use certain lands, provide for Tom, Keep the farm in repair, And they then proceed to Set out the amounts each one had received, in the way of advancements from the said Robert Butcher, by which it seems that Joseph Butcher

to advancements, or must they all be made equal in the first place out of said Sales, having reference to said advancements: and any residue that may then remain to be divided equally among all.

In the Suit of Elisha Butcher & Polly Hoskins, against the other heirs of Robert Butcher, the pleffs do not state what their interest in said Slaves are, they do not say one word about antecedent advancements, they State that all are interested, and that division in kind cannot be made, & therefore pray a Sale: Yet from what has already been seen and stated, I am clearly of opinion, that they did not seem it necessary, to State such facts, as would ordinarily be stated in a bill, seeking to coerce some into an account of antecedent advancements, but that they merely wanted a Sale, and that the proceeds thereof, should go into Mr Elys hands, who knew all about the advancements, and the understanding and agreements among themselves, that they should all be made equal in the end, and that he in good faith, would make that application of the proceeds which he knew to be in accordance with the agreements and understanding among themselves.

We have already seen, the amounts each heir had received, from Roberts Butcher, and we have now seen the aggregate Sum which Mr Ely realized or should have realized, from the Sale of said Slaves.

Mr Ely is entitled to retain out of the gross Sales, 5 per cent upon the first $300.00 thereof, and 2½ per cent upon the residue and thus calculated his

commission amounts to $70.60, and that Sum deducted from said gross Sales, leaves $3010.40, as nett proceeds thereof.

We have before seen, that Joseph Butcher had received in the way of advancements, the Sum of $1506.68. being a larger Sum, than any of his Brothers or Sisters, now in order to make the others equal to him, there must be paid to Samuel Mc. Spadden & wife $156.68, to Joseph Mc. Spadden & wife $381.68, to William Butcher $531.68, to Elisha Butcher $606.68, and to Polly Hoskins $906.68, and were these sums paid to them respectively, they would then be equal with said Joseph, and to make these payments, it will require $2583.40, & when made, it would still leave in the hands of Mr Ely, the Sum of $427.00, to be divided equally among all of said heirs; and being thus divided, gives to each heir, the Sum of $71.16⅔, And I now file herewith a paper marked (H) the first Statement therein, shewing these facts. in tabular form.

Joseph Butcher as before Stated, died, leaving three heirs, Elisha jr. Elonzo, and Mary, who married B H Mr Cole who it would seem, are entitled to said $71.16⅔, being the share to which the said Joseph, would have been entitled had he lived, out of the proceeds of said Slaves, after equalizing the heirs with reference to advancements, and that Sum being divided into three parts, will give to each about $23.72.

On said paper (H.) I have, prepared a Second Statement, Shewing the Sum of Sums, due from said Ely,

to each of said heirs, out of the sales of said Slaves; it Shows the Sum to be paid each, to make them equal with Joseph, and also the Share to which such is entitled out of the excess beyon what is necessary to make them all equal; and then the aggregate Sum due each on the 16th day of May 1861, and if Mr Ely had paid to the heirs of said Joseph $71.16⅔, to Samuel Mc Spadden wife $227.84⅔, to Joseph Mc Spaddens wife $452.84⅔, to William Butcher $602.84⅔, to Elisha Butcher $677.84⅔, and to Polly Hoskins $977.84⅔, as of the 16 th of May 1861, he then would have distributed among them $3010.40, equal to the nett proceeds of the sale of said Slaves;

I now file herewith a bill of Sale from Elroys D. Butcher, to William S. Ely, bearing date March 10th 1855, and mark the same (J), by which it will be seen, that said Butcher conveys to him, all his interest in said Slaves, and all his interest in any other personal estate, of his Grand Father Robert Butcher, and also his interest in the estate of Nancy Butcher;

I now file herewith another paper marked (J), which seems to be a Sale, by Phoeba Mc Spadden wife of Saml Mc Spadden, by her attorney in fact, the said Samuel, her husband, to William S Ely, dated Sept 24 th 1855; by which for $150.00 she sells and conveys to him, all her interest in the personal estate of Robert Butcher, and the personal estate of Nancy Butcher, including the said Slaves; This Sale is broad and comprehensive enough to cover any and every thing, pertaining to said estates;

and the only dificulty about it is, that the Sale Seems to be a very Singular one, that of a husband acting as attorney in fact for his wife, and Selling and conveying property, in her name, to which he himself had the legal title, and could have sold the same himself without even consulting his wife, But as he was the party acting for her, he certainly ought, and would, be bound by his own act:

At the time of these transactions William S Ely was of course living, and the only child of Robert M. Ely, and was therefore the heir apparent to his estate, The said William S, however died before his father the said Robert M, But he left an only child, now one of the defendants in this cause, and this only child of the said William S Ely, succeeds to the two estates of his grand father and father; In fact I have but little doubt that the said R M & W S Ely, during their lives, regarded their two estates, as but one, and that said William S, in making said two purchases, considered that he was only praying off his fathers liabilities, & a debt virtually owing by himself, I am therefore disposed to regard said two purchases, as payments made by the said Robert M Ely, the first as $23-72 and the second as $227. 81 4/3.

The said Polly Hoskins now claims, that she is the owner of Elisha Bullens interest in said Slaves, as well as that of her own, let those interests be what they may, either one Sixth each, or more, and the oral proof bearing thereon, is anything but Satisfactory &

had received $1506.68. William Butcher $975.00. Elisha Butcher $900.00, Samuel Mc. Spadden $1350.00, Joseph Mc. Spadden $1125.00, and Polly Hoskins $600.00;

These heirs State in said instrument, that they have made that Settlement among themselves, up to the death of their father; And as to said advancements, the said Murphy, in his deposition agrees with what is Stated therein.

I can see no object which said heirs could have had in view, in making such a Settlement and Statement, but one, and that is, to fix the amount each one had then received, while the matter was then fresh in their Memory, with a view, of making them all equal, in the way of property, upon a final Settlement of the said Roberts estate. And if they were willing, and desired each should be made equal, I cannot see why others ought, or could reasonably object to such being done. I think the evidence in the cause, tends very Strongly to Show, that R Butcher considered that they were to be made equal, and the fact of his praying to the agents of Mrs Hoskins at one time about $1296.00, Shows to my mind that he acted with reference to such a fact, and being so impressed, I shall hereafter consider that they were to be made equal one with an other.

I believe it is conceded, that Roberts Butcher owned other slaves, than those mentioned in said appraisement, if he did not, those therein mentioned had increased in number from 1847 to about 1857 or 8,

to four five or 6 in number, for as we shall see after a while, that about this number, was subsequently sold by said Ely, under a decree of court, as the property of Robert Butcher

I believe that it is conceded also, that such slaves as were left by said Butcher at his death, were to live with, and aid, in the support of Nancy Butcher, the widow of said Robert, during her life; and the evidence of Thomas H. Brent, (See dep. E) shows that he hired one of said slaves, two years, at $90.00 per year, and that he paid the same to R M. Ely, and he also shows, that said Ely, paid out a good part of that sum, for the support of the widow of said Robert Butcher dec'd, and that the same was paid to the pelff for supporting her mother.

The said widow Nancy Butcher, died probably some time between the years 1855 and 1860, the time not known, and this event left said slaves to be disposed of in some way.

In the year 1852 a Chancery Suit was brought by Elisha Butcher and Polly Hawkins, against the other heirs of Robert Butcher; the object of which, was, to obtain a decree for the sale of said slaves, upon the ground that they could not be partitioned in kind.

About the 16th day of May 1853, a Decree was rendered in said cause, directing a Sale of said slaves, and appointed Robert M Ely, a commissioner to execute the same; This decree directs said Sale to be made at the court house, while the evidence of Mr Feilton,

shows that it was in fact made, at a Store house near said Elys, and near Walnut Hill; And while this decree for the sale of said Slaves, was rendered on the 16th day of May 1853, yet the sale was not made until the 16th day of November 1860, according to the report of said Commissioner, filed in that cause, dated February the 14th 1861. How does it happen that more than 7 years had elapsed after the rendition of said decree, before said sale was made, and how did it happen that said sale was made at Walnut Hill, when the decree directs the sale at the Court House?

There is no evidence in the cause to explain these enquiries, yet I have my own opinion as to the probable reasons and it is this, or rather they are these- That said slaves were to remain with, and take care of the said widow, during her life, and that she was still living at the time said decree was rendered, and therefore said decree was prematurely rendered; That between the rendition of said decree, and the time of sale, the said decree was so modified, as to authorise said sale to be made at Walnut Hill, and not at the Court House, but if such decree was made it is not now among the papers of the cause.

This cause is now pending in your Honors court for final action, and to the report of the sale of said Slaves filed therein by Comm.r R M Ely, one Mary A Bull, the widow and Executrix of George W. Bull, who it appears bought one of said Slaves at the price of $635.00, has filed an exception thereto, and resists the confirmation of said sale so far as her testator is concerned, upon the ground

therein set out, And if the exception is good as to the purchase of her testator, it would be equally good as to all the others, And could I believe for a moment that said exception was founded either in law or justice and could possibly be sustained, I would at once desist from the further prosecution of this report, until the same should be passed upon by your Honor,* for if said exception should be sustained as to Ball it could and would doubtless be sustained as to all, who would insist thereon, and all of said purchasers, situated as Ball is, would in all probability so insist; and so far as I know they may all of them owe the purchase price of said slaves (as it do not suppose they do) and should said entire sale be set aside, then the supposed assets in the hands of R M Ely, growing out of said sales, and sought to be reached by this suit, would at once vanish and disappear.

The pltff with her bill and as parts thereof, has made the copy of said Ely's report filed in the suit just referred to, an exhibit marked (A) but which I now mark (G) by reference to which, it will be seen, that the slaves therein mentioned, sold by said Ely, on the 16th day of November 1860. brought the sum of $3080.00, and that the purchase money therefor, became due and payable 6 months after said sale, or, on the 16th day of May 1861. Now who are entitled to recive the proceeds of said sale evidently the heirs of Robert Butcher or their assignees, but in what proportion are they entitled to recieve it, equally without reference

* See remarks found at the end of report touching this question

17 conclusive. I now file herewith a paper marked (K), dated August the 4th 1854, which is a copy of a contract, filed as an exhibit in a Suit long since disposed of in your Honors court, brought by the said Polly Hoskins, against William S. Martin, and which original paper, is Signed by Elisha Butcher, Polly Hoskins, and William S. Martin;, and an examination thereof will show, that the said Polly Hoskins, and Elisha Butcher, for the consideration as therein recited of two hundred dollars, Sold to said Martin all their interest in the three Slaves therein named, belonging to the estate of Robert Butcher deed; This contract so far as the parties thereto are concerned, is a little uncertain as to the extent of the interest sold, and the amount of the money to be paid; Butcher and Hoskins seemed to be certain, that they were each Selling at least one Sixth in said Slaves, and they seemed to be impressed with the idea, that they were probably interested therein to a greater extent than one Sixth part, and hence they required Martin, in the event, that it was ascertained, their interests amounted to more than one Sixth, to pay to them such further sum, as would be just; I only now, thus refer to these provisions, in order to show, what the parties then thought with reference to advancements, and their respective rights with reference thereto;

About the year 1858, Polly Hoskins filed her bill against said Martin, to have the said Contract set aside, and among other things alleged that since said Sale to him, the negro woman Milly, had given

birth, to two likely children, thereby increasing his purchase to 5, being the same 5, subsequently sold by R M. Ely, Now taking that allegation as true, it follows, that said Martin by said purchase, became the owner of whatever interest the said Polly Hoskins and Elisha Butcher may have had in said Slaves, for said Sale was not annulled and set aside, but the matter was adjusted by compromise, in all probability, as we shall presently be led to conclude.

I now file herewith an original paper marked (L) which shows that on the 31st day of January 1860, William S. Martin, sold and conveyed to said Polly Hoskins, all his right and title to said slaves, acquired by his purchase from Elisha Butcher and said Polly Hoskins, and in this last sale, Martin says, "that Polly Hoskins is to pay to Elisha Butcher any thing he may owe him". In this sale, Martin does not State the consideration, but we shall see that hereafter,

When we look at these two Sales, and then take into consideration, the evidence in the cause, touching the matter, it seems to me, that the plaintiff, may very say, that she is the owner of two slaves in said slaves. for that proposition seems to be clearly established.

This last Sale I have but little doubt, was made with a view, and as a Settlement of the matters involved in this last mentioned Suit.

It is conceeded, and likewise proved, that Polly Hoskins, employed Stephen L. Mansfield as her agent, to settle with R M Ely, the business

of said estate so far as she was concerned, and Murphy proves the fact, that he employed Geo. H. Hoskins, and A.D. Woodson as agents, on behalf of Mrs Hoskins to settle the matter with Mr Ely:

I now file hereunto a papers marked (M) which shows that said Geo H Hoskins, & A.D. Woodson, as the agents of Polly Hoskins, on the 18th of October 1861, received of R.M. Ely, the sum of $1296.62½, on account of Money in his hands as Comm.r for the sale of negroes.

At the foot of this receipt, is an obligation by which, said agents bind themselves to refund to Mr Ely, if upon a final settlement, it should turn out, that there was not as much due the Pelff, as they had then received for her: Upon the idea however, that I have been proceeding with this report upon, it turns out, that more was due the Pelff than was then paid, so that in the present attitude of the case, said receipt must be regarded as a payment, upon the amount due said Pelff:

The Guardian ad litem for the infant defendant, sets up the foregoing papers, as a defence to the claim sought to be enforced, which I have allowed. He also charges that there was found, among the papers of R.M. Ely, a tax ticket against Polly Hoskins. amounting to $3.19, and a note of $700.00 executed by her to William S. Martin, both of which he supposes to have been paid by Mr Ely for her; As to the tax ticket, there is no evidence one way or the other, but I suppose the ticket affords sufficient evidence, that the Pelff was assessed with the amount of tax therein specified & shown, and the

possession thereof by Mr Ely, is I suppose prima facie sufficient to raise the presumption, that he paid it for her, and if so, then he is entitled to a credit as between him and her, for the amount thereof.

Now as to the $700.00 note to Martin, that too was found among Mr Elys papers, and Mr Ely was the security therefor. Col Martin says (See his depo 13) that Mr Ely paid to him, all that he ever received thereon, and that the credit of $400.00 entered thereon, is not in his hand writing, and he states further that his impression now is, that he placed said note in Mr Elys hands for collection, and that he knows nothing about any payments, having been made by Mrs Hopkins or her agents, to Mr Ely on account thereof.

Mr Murphy on the other hand, testifies positively, that he as the agent of Mrs Hopkins, paid to Mr Ely the full amount of said note - that at one time he paid $400. and at another the residue.

The note its self, shows that $400,00, was, at some time, by some body, paid thereon, this item to that extent in the absence of any other evidence, would tend to strengthen and support Mr Murphys testimony, and as there is no conflict between Martin and Murphy, but what each says may be true and yet - - - the latter may have paid to Ely, the full amount of said note, and as this is the character of the proof before us touching that matter, I suppose I can do nothing, but consider that said note was fully paid to said Ely, and to disallow any credit therefor, as against the

claim now before us, and I shall accordingly so act.

I have now reviewed the general ground upon which the claim in this Suit is based and I have also reviewed the several credits claimed by the defence, and have given my views thereon. And by way of Showing the final result, I must again call your attention to Jasper (H.) and to Statements No 3, 4 & 5.

Statement No 3 Shows the standing of R M Ely, with reference to the heirs of Joseph Butcher decd. one of which was bought out by W S Ely, which is considered as paid, while there is yet due to Elisha $23.72, and to Mary Coles two children, the like Sum of $23.72.

Statement No 4 Shows Mr Elys Standing with the Estate with reference to her two interests, by which it is Seen, that there is a balance due her of $353.87, after deducting the payment made to Woodson & W. Hoskins, and paid to Patients.

Statement No 5 is a general Statement of the whole matter. I have charged Ely with the nett proceeds of said slaves, then gave him the four credits referred to in the foregoing report, amounting in the aggregate to $1563.38, and this deducted from Nett Sales, left the Sum of $1447.02 yet to be accounted for, and the latter part of said Statement, then shows to whom the same is due, and the amount due each, with interest from May the 16th 1861.

Should you be of Opinion, that the proceeds of the Sales of said Slaves, Should be divided among Butchers heirs equally, and without reference to advancements, then the Share of each in said fund would be $501.76⅔, and at this rate Polly Hoskins

two Shares, would amount to $1003.52½. and Mr Ely having paid her $1301.81, it follows that he has overpaid her the sum of $298.29, which she would have to refund, and in such an event, she would feel rather suckward in court. And this view of the case, is contemplated by the Sixth Statement, on said paper (A) only however so far as She is concerned.

But should your honor entertain this last view of the matter, then it becomes necessary, if it should be determined to adjust this matter, as between the estate of said Ely, and the other heirs in this Suit, to re-State the entire account, and as it is possible that such may be the determination, I have concluded to state an account upon this idea, so that the matter may be finally adjusted, without a re-commitment of the account, and I now file herewith such a Statement marked (No). and this view of the case is a little more favorable to the estate than the first.

The decree under which I am acting, or the paper as one, contemplates the convening of the creditors of the estate of R Mrly, which I have not done, or attempted to do, further than has already been done.

I know of no debts against the estate, altho there may be many, but still were they numerous, the estate is good, and the admr no doubt, has the means at his command, to liquidate all such; there is then for no use to convene them in order for a ratable distribution, or to sell real estate to raise means to discharge them? Why then bestow the labor and

incur the expense, of doing that, which will not result in good to any one.

At the time of making the remarks, with reference to the exceptions filed by Mrs Ball, to the report of the sales of Slaves made by R M Ely, & filed in the cause of Polly Hoskins & Elisha Butcher, against the other heirs of Robert Butcher decd, I did not then take into consideration, the fact, that the slave had been liberated by the Federal Government, and by the action of the State, before the sale was confirmed, And as this consideration and this view of the case, might make it a little doubtful how that question might be settled, I suppose it would be the better and safer course to pursue, to take no action in this cause, untill that question is settled, for as this report now stands, Mr Ely is charged, with the price of the negro bought by Mr Ball. If said exceptions should be sustained, that would have the effect, of releasing Balls estate from the payment of $635. (the price of said negro) to the estate of said Ely, and such action would in all probability, release said Ely to that extent, from liability to the heirs of said Butcher.

Mr Fulton says, that not long after Mr Ely had paid to Woodson & Hoskins as agents of Polly Hoskins the $1296.62, he heard Mr Ely say, that he wished he had not paid her so much, or that he believed he had paid her more than was due her. This expression of Mr Ely, doubtless grew out of the fact, that he was vacillating between the two opinions, as to how this matter might be settled. When he thought, as he doubtless did, at the time of making said payment, that the settlement would be ultimately

made with reference to preceeding advancements, he was satisfied, but when he thought, as perhaps he did, at the time of using said language, that an equal distribution of the proceeds of said slaves, would be made among all, without reference to advancements, then he regretted his own action in saying so much

The decree in this cause, also requires the account of Joseph McPherson adm. of R M Ely to be Stated and settled, and this I have not done. I find in the clerks office, a Settlement of his account made as far back as 1868, which shows that, at that time, there was in said McPhersons hands unaccounted for, assets to the amount of $3512.93 for principal & Interest. This Settlement was confirmed, and ordered to be recorded on the 22 day of December 1868; and so far as I see, no other or further settlement of his account has been made.

The estate of said Ely is unquestionably good, for a very large amount beyond its liabilities, and I have but little doubt, that all its liabilities will be paid out of the personal assets, I therefore think it makes but little difference, whether said account is now a Stated in this Suit or not. and as it is not equally convenient to do so, for the reason, that I have not required Mr McPherson to, produce the papers necessary to enable me to do so, I concluded to close the report, without delaying the matter, to get such information and papers as would enable me to State the said account.

I have but little doubt that proof could be made that from the death of Robert Butcher in 1847. to the

25 death of his widow Nancy, the negro Aman Tom was hired out by Mr Ely, who received the wages therefor, and purchased the woman Milly likewise, and could the facts be shown as they really were, I have but little doubt, that it was the understanding and agreement, among the heirs that the hire of said Slave or Slaves, should be appropriated to the support of the widow, & which to a greater or less extent, was doubtless done, but these facts, are not shown to any considerable extent. Mr Brents deposition done tending in that direction

The records of the clerks office shows the fact, that R M. Ely & H.S. Ely bought out the entire interest of the Butcher heirs, in the real estate of Robert Butcher deceased, and until the taking of this account I had been impressed with the idea that they had purchased all, or nearly all, of their interests in the personal estate including Slaves And I confess, I was a little surprised to find, that the records of the clerks office, did not show a Single sale or purchase of this personal estate, by either R M or H. S. Ely from either of said heirs, And I was no less surprised to find, that the admr of R M. Ely, and the guardian of the infants defts, could find but the two purchases of this personal estate which has already been referred to. And that they could not show by oral testimoney that such purchases had in fact been made

I have now discharged the main duty required by the decree under which, I have acted as best I could with the lights before me, and have referred at length to all the material circumstances connected therewith which presented themselves to my mind, and now

Polly Hoskins

vs } Commrs Report.

Joseph D. McPherson & Others

Filed Aug 14th 1874.
James W Orr Clk.

Commissioners Fee is $45.50

And to the discharge of said further consolidation thereof
will ever be respectfully submitted.
Henry J Livingston Comr.
Aug 10th 1874

Commissioners Office Jonesville Va. Feb 8th 1875.

Polly Hoskins Pff
vs. } In Chancery
Joseph McPherson adm'r &c Defts

Elisha Boucher & others Pff
vs. } In Chancery
William Boucher & others Defts

To the Hon John A. Kelly Judge of the circuit Court of Lee County

The principle enquiry directed to be made by me in the causes by a decree entered therein, on the 2nd day of Dec'r 1874. is, as to whether or not, R. M. Ely and his administrator had collected all the purchase money for the Slaves, sold by said Ely, as commissioner in the suit of Elisha Boucher & al vs. William Boucher & others, except the debt of $635.00 on George W. Ball. It also contemplates the enquiry as to any particular facts or circumstances attending the sale of said Slaves that might be deemed pertinent, or that might tend to show whether or not said Sale ought now to be affirmed, or set aside.

In order to proceed with these enquiries, I on the 30th day of January last, prepared a notice, the original of which I herewith file marked (A) in which I set out briefly the objects had in view, and the time and place at which I would proceed with those enquiries, a Substantial Copy of which notice I deposited in the Post office at this place on the 31st day of January last addressed to Joseph E. McPherson at "Walnut Hill" Lee Co Va and a Similar Copy to John Ball Son of Geo W. Ball at "Bales Mills Lee Co Va

On the back of said Notice Mr Miller counsel for Polly Hoskins, and Charles L Hamblen admr with the will annexed of said George M. Ball deceased, have accepted legal service thereof.

With the notice thus sent by me to Mr McPherson I called his attention to the importance of showing if such were true, that George M. Ball at the time of said Sale took immediate possession of the negro bought by him and that he continued in the possession thereof untill she was liberated, by the Federal and State government or any other fact or circumstance that might tend to show that the estate of said George M. Ball ought in justice to pay for said negro.

In addition to the information contained in the notice sent to Mr Ball, I also informed him that any fact or circumstance that might tend to show that his Intestate estate ought not in justice to pay for said negro, ought to be shown in evidence.

Mr McPherson did not appear before me as required, for any purpose, either to show that there other debts due his intestates estate for said negroes other than the Ball debt, or to adduce facts and circumstances tending to show that Balls estate ought in justice to be required to pay the debt wrongly its

And these being the facts, I presume that so far as the enquiry is concerned, with reference to any other debts created for the purchase of said negros aside from the Ball debt that I would be justified in reporting which I now do that all the debts

thus created except the Bull debt has been paid either to said Ely in his lifetime, or to Mr McPherson as his adm'r since his death.

On the day set apart for this proceeding, the said John Bull and William M. Bowen the son in law of said George W. Bull appeared before me And the only grounds upon which they claimed that Bulls estate ought to be released from the payment of said debt is, that a Tender of the amount due Mr Ely on said debt had been made And they also insisted that if the Tender was not a good defence as to the original debt, that it would have the effect of stopping the interest which would otherwise accrue thereon from the time of such tender.

Touching these two propositions, I took the deposition of said William M. Bowen and William D. Martin and the same is filed herewith marked B.

By the report of Mr Ely filed in the cause of Butcher against Bowen it appears that he sold said negroes on the 16th day of Nov. 1860 on a credit of 6 Months and as a matter of course the purchase money became due the 16th of May 1861

I have examined the clerks office for the note executed by Bull to Ely for said negro where it ought to be for suit was brought thereon, to see whether there was any provision therein as to how or what kind of money would discharge the same, but I did not succeed in finding it. We are therefore left to conjecture as to what its provisions were.

Mr Bowens evidence would seem to show

that about the latter part of the year 1862 that a tender was made by him on behalf of Mary A. Ball, of both, State Bank, and Confederate Money to Mr Ely to the full amount of Balls note to him, and the statements of Wm L Martin as far as they go tend to strengthen Mr Browns evidence.

Now if said note provided, that it could be paid in Bank paper, or Confederate Money then it seem that the plea of tender might avail something, but even if that fact did appear, a further difficulty would present itself, and that is, that the tender if made was about 18 months after the day of payment had arrived. So upon the whole this defence cannot avail anything, and being driven to this conclusion as to that branch of their defence, it follows that this tender could not of its self have the effect of stopping interest from the time the same was made.

I suppose that if at the time said tender was made, a contract was made between Mr Ely & Mr Brown that in as much as the tender had then been made and Mr Ely did not choose to accept it that in consideration thereof he would not for the future claim interest, that such an agreement or contract would perhaps stop the running of interest, But I hardly think Mr Browns evidence touching that point confided with that of Mr Martin will make such a case.

I apprehend that the language proved to have been used by Mr Ely at the time of this supposed

tender was substantially this If the tender upon bane thus made is good in law then it stops interest

But all this has nothing now to do with the matters involved in these causes and I only referred to them because Mr Ball and Mr Brown thought they ought to be brought to your attention

The only grounds of defence presented in these causes, so far as said note is concerned is that raised by the exceptions of Mrs Ball to Mr Ely's report filed in the cause of Bachenheimer vs Bachenheimer

If it requires a confirmation of the report filed by Mr Ely by the court, in order to transfer the title or right in personal property to the purchaser and no such order of confirmation has been entered therein, then in that view it would seem that the law would be for Mr Ball, But should it be held that such is the law abstractly considered yet would that be a sufficient reason for your Honor to decline now to confirm said report

Suppose that the sale was fairly and honestly made, no fraud or deception used, and such an one as would have been confirmed by the court at the time, if application had been made to it for that purpose; then, is it now a sufficient reason to refuse to confirm said report to say that Slavery has been abolished and abrogated by the Federal and State governments, and said negro thereby lost to said Ball without any negligence on the part of Ely or Ball and at the time said sale was made, neither of them could possibly foresee the events which were

soon to follow. And if it had been possible to have foreseen those events, Still it would have been utterly impossible, for both, or either, of them to control them.

But I will not express any opinion touching that subject, as it is one of law, to be determined by your Honor. I only mean to suggest some enquiries which present themselves to my mind & nothing more.

Mr Brown's evidence shows that George W. Ball after he bought the negro. gave her to his daughter Lucy A Brittain wife of Wm K. Brittain by whom she was kept and used until the latter part of the late war. but it does not show whether he kept her a while after he made the purchase, or immediately afterward gave her to his daughter.

There is nothing shown, with reference to any particular facts or circumstances attending said sale, and in the absence of such, I suppose that we would have to presume that such facts and circumstances attended this as is usual in such cases, about which your Honor knows much more than I do.

All which is respectfully Submitted

Henry J. Morgan Com

Polly Hoskins

vs } Second Comm. Report

Joseph McPherson admrd.

Filed March 5th 1875.

James W Orr. Clerk.

Commissioners fee $7.50

Commissioners Office Jonesville Va. January 30th 1875

Polly Hopkins — Pff
vs
Joseph McPherson adm & others — Defts
} In Chy

Elisha Bouchu & al — Pffs
vs
William Bouchu & al — Defts
} In Chancery

By a decree entered in these causes on the 2nd day of Decr 1874, among other things it was adjudged ordered and decreed, That Comr H. J. Morgan do enquire and report, whether or not, R M Ely or his adm. have collected all the purchase Money of the Slaves sold by said Ely as a Commr of the court in this second of these causes, except the George W. Ball debt, and if not all how much is yet unpaid And he will also report such facts attending the sale of said Slave to Ball as he may deem pertinent

Notice

Is hereby given the parties to these suits, that at my office in Jonesville on the 8th day of Feb 1875 I will proceed to execute the said decree, at which time and place the parties interested are required to appear with such evidence as they may have to offer

Henry J. Morgan Comr.

On the night of the 31st of January 1875 I enclosed a copy of the within notice in an envelope addressed to Jos D. M. Pleasants adm of R M Ely dec'd at Walnut Hill Luco Va. and deposited the same in the P.O. at Jonesville and a like copy addressed to John Bull Son of Geo. W. Bull dec'd at Bales Mills Lu Co Va.

Henry J Morgan Comr

Sally Hoskins

vs

Notice

Jos. D. M. Pleasants adm

I as comm'r for the pltff accept Service of the within

David E. Miller
Atty for pltff
Hoskins

I as adm'r of George W. Bull dec'd accept Service of the within notice

R. L. Hamilton
adm'r

(A)

Commissioners Office Jonesville Va Feb 8th 1875

Polly Hoskins Pff
vs. } In Chancery
Joseph L. McPherson admr &c Defts

Elisha Boucher &c Pff
vs. } In Chancery
William Boucher &c Defts

The deposition of William M. Brown taken on behalf of C L. Hamblen admr of George W. Ball deceased who is a party to the Second Styled Suit above mentioned Taken before the undersigned Commissioner in Jonesville on the 8th day of February 1875 and at the time of making a report in said two causes And the said William M. Brown being Sworn Says

I am a Son in law of said George W. Ball dec'd having married his daughter (Elizabeth Ball) And I remember well the fact that some time after the death of George W. Ball which occured as well as I now remember in August or September 1862, there came into the hands of Mary A Ball his executrix a considerable amount of Money both Confederate and State Bank, and She asked me to take both Kinds with me and to go and See Mr R M Ely and to pay him the full amount of a certain $635.00 note which said Geo W. Ball had executed to him for the peice of a negro formerly purchased, and to pay him in either of said currency he might prefer And I as requested did take both Kinds of Money and went to See Mr Ely and proposed to pay him the amount of said note in Bank paper

or Confederate Money which ever he might prefer and I thereupon counted out to him both Kinds of money to an amount sufficient to discharge said debt, principal and interest as we then calculated it, but I do not remember the amount, and I then tendered him a tender of either and both Kinds of said currency to the amount of said note, But Mr Ely refused to receive either, and gave as an excuse that he did not then have the note, that he had sent it away with his other papers for safe Keeping, and that he could not receive it without he had the note to Surrender, And as well as I now remember Mr William L Martin and Calvin Chadwell were both present at the time this tender was made by me to Mr Ely At the time I thus made this tender to him Mr Ely said, well this will stop the interest upon this debt from this time forward

The money here referred to was received by Mrs Ball for a lot of Hogs sold by her in the fall of 1862 and I now suppose she probably received it in the months of Nov. or Decr of that year, and my recollection now is that in a very few days afterward I took the money and made the tender before referred to.

The negro girl bought by Mr Ball and for which said note was executed was given by him to his daughter Lucy Ann Brittain wife of William K. Brittain in whose possession she remained as well as I remember until the latter part of the late war when

she was probably persuaded to leave her home by her reputed father Stephen Hoskins colored

I do not now remember whether Mr Ball brought her home with him or not at the time he bought her, or if he did how long he kept her before giving her to Mrs Britton

And further this witness saith not.

William A Brow

William S Martin being likewise Sworn Says

I remember that on one occasion but the time I do not remember, I at the request of Alexander Chadwell the father of Mary A Ball went with Galen Chadwell and probably Wm M. Brown to See R M Ely with reference to a note executed by Geo. A. Ball in his lifetime to said Ely, and we saw him, and during that interview, State bank Money and Confederate Money was each offered to him in discharge of said note and as well as I remember, the amount of said note, at the time was counted out of both of said currencys and Mr Ely was offered his choice, but he declined to take either, and gave as a reason that he did not then have the note or something of that sort.

It now seems to me, that Something was said about interest being then Stopped for the future, but I do not remember by whom the remark was made But my present impression is that Mr Ely said that as the money had been tendered him that would Stop the interest on said note for the future

And further this witness saith not Wm S Martin

Polly Hoskins

vs

Jos. S. McPherson admr

(B)

The foregoing deposition of Wm. H. Brown was taken and sworn to before me, Henry H. Berry, a Notary Public in and for Lafayette Co. Miss. this 8th day of Feb 1875

Henry H. Berry

Notice.

Charles L. Hamblen admr. &c. Plaintiff
against
Joseph McPherson & others Defendants
} Notice to execute a Decree for an account

Pursuant to a decree of the County Court of Lee County made and entered in the above Styled Cause at the November term thereof 1872 I as Special Commissioner appointed by said decree in the said Cause will proceed at my residence on the first day of February 1873 in Lee County to take State and adjust the administration account of Robert M. Ely late administrator of the estate of Robert Butcher deceased including therein the price of the Sales of the negro Slaves referred to in Complainants bill and in doing so I will ascertain and Show the various Sums of money and personal property that went into his hands as Such administrator and Comr. for the Sale of the negro Slaves and also the amount of his disbursements as admr. & Comr. & the amount of funds in his hands yet to be distributed if any. I will then take State and adjust the administration account of Joseph McPherson admr. of the estate of Robert M. Ely deceased and in the third place I will ascertain the outstanding debts due from the estate of Robert M. Ely deceased to Such persons as will make written affidavits of the justice of their Claims and establish the Same by other legitimate evidence,

All persons being interested in the estate of Robert Butcher deceased, as creditors or otherwise and the estate of Robert M. Ely deceased, as creditors or otherwise will then and there present their Claims and have the evidence before me.

James B. Colton
Special Commissioner

Charles L. Hamblen
admr. &c.

vs.

Copy of notice
posted for
Report as Comr.

Joseph M.c Pherson Fathers

(A)

Robert M. Ely late administrator of the Estate of Robert Boucher deceased Dr.
To the heirs and Distributees of Said estate

		Principal $	cts	Interest $	cts
	To the amount of the appraisement Bill of the estate of Robert Boucher deceased				
	To Interest on the Same to the first day of February 1873				
	(See Copy of Appraisement Bill herewith filed for the above Charge)				
Nov. 16th 1860	To Slaves Sold by Robert M. Ely as Commissioner on Nov. 16th 1860 as follows; on Six months time Tom to Daniel Littrell for $675. Milly & Child to Wm. Woodson for $1265. Sela to George W. Ball for $635. Matison to David Chadwell Sr. for $505. amounting in all to the Sum of	3080	00		
	To interest on the Same from the 15th day of august 1861 till Feb. 1st 1873			2116	95
	(See Copy of Robert M. Elys report as Comr. for the above sale of negroes)				
	It is admitted by the parties that Robt. M. Ely Collected all the money for which the above Negroes were Sold except the $635.00 and interest thereon due from the estate of George W. Ball decd.				
	Amount of Principal	3080	00		
	Amount of interest up to Feb 1st 1873			2116	95
	Total amount of principal & interest against Robert M. Ely as admr. & Comr.	$5196.95			

Charles L. Hamblen
adm'r. &c.
vs. administration & comm's.
account of Robert M.
Ely adm'r. & comr. &c.
Joseph McPherson & others

(B)

Joseph McPherson administrator of the
Estate of Robert M. Ely deceased Dr.
To the heirs and Distributees of Said estate

	Principal $	Principal cts	Interest $	Interest cts
To Charles L. Hamblen administrator of the estate of Robert Bucher decd for $400.00 the amount of the appraisement bill of Robert Buchers estate				
To interest on the Same to the first day of February 1873				
(See the Copy of appraisement bill herewith filed for this Charge and this Charge may be Subject to the plea of limitation except So far as payments or offsets against it).				
To the heirs of Robert Bucher deceased for the Slaves Sold by Robert M. Ely as Commissioner on Nov. 14th 1860	3080	00		
To interest on the Same from the 15th day of August 1861 till the 1st day of February 1873			2116	95
amount of principal	3080	00		
amount of Interest			2116	95

Amount of principal and interest due from Robert M Elys estate to the administrator and heirs of Robert Boucher deceased which is the amount found in Said administrator Robert M. Elys hands unaccounted for by the Settlement herewith filed $5196.95

Charles L. Hamblen
adm'r. &c.
vs. administration account
of Joseph McPherson
adm'r. of Robt. M. Clyde's

Joseph McPherson
& others

(C)

Joseph McPherson administrator of the
Estate of Robt McCly Dr.
To. Polly Hoskins in her own right
and as purchaser of Elish Bouchers interest
in Robert Bouchers Estate

Aug. 14 / 1861.	To. Polly Hoskins	$600.00
	To Elish Boucher	300.00
		$900.00
	To. Interest on same from Aug. 15/46.	1449.00
	Total Principle & Interest	2349.00

1855. To $\frac{5}{6}$ of $[illegible]. paid by Polly Hoskins
to John Netherland for an Attorney fee. $83.33
Interest on same. 90.00
$173.33

1859. To $\frac{5}{6}$ of $33.86. Receipt paid Thos J Brown
Balance of cost in favour of R McClung & Cly
against said Bouchers heirs $19.89
Interest on same 16.70
$36.59

1858. To $\frac{5}{6}$ of $[illegible] Receipt paid A J. Blackett
[illegible] $53.54
50.15
$103.69

1860 / Due Polly Hoskins for Keeping
her mother. Nancy Boucher $21.00
Interest on Same 16.38
$37.38

Amount Due Polly Hoskins $2659.85

State of Tennessee
Hawkins County

Polly Hoskins personley appeard before me Wm. H. H
Moore a justice of the peace of said county and
made oath in due form of law that the above
account is true to the best of her knowledge
and belief after geving all just credits this 30th
day of July 1863.

Wm. H. H. Moore J.P.
for Hawkins County

Charles L. Hamblen
admr. &c. & others

vs. Polly Hopkins Claim

Joseph McPherson
admr. &c. & others

(D)

Joseph McPherson administrator of the estate of Robert M. Ely decd. Dr.
To the Creditors of Said estate

	Principal $	Principal cts	Interest $	Interest cts
To Polly Hoskins in her own right and as purchaser of Elisha Buchers part of the estate of Robert Bucher deceased they being Children and heirs of Robert Bucher deceased and which includes their part of the money and debts the Slaves Sold for	900	00		
To interest on the Same from aug 15th 1861 till February 1st 1873.			618	75
amount of principal	900	00		
Amount of Interest			618	75
Amount of Principal and interest on the first day of February 1873	1518	75		

Charles L. Hamblen
Admr &c.

vs Creditors account

Joseph McPherson
Admr. &c. & others

(E)

A Copy of R. M. Ely's Report

Lee County Virginia

Pursuant to An order appointing me Commissioner to Sell Slaves belonging to the heirs of Robert Bucher deceased I proceeded on the 16th day of November 1860 according to appointment to Sell Said Slaves viz:

Tom bought by Daniel Littrell for $675.
Milly & Child by Wm. Woodson for $1265.
Sold a Girl about 8 years old by George W. Ball for $635.
by David Chadwell Sr. Mattison $505. Sold to the highest bidder at the time & place mentioned in the Decree on 6 months time bond and Security was given by the purchasers.

February 14th 1861.

Robert M. Ely
Commissioner

A Copy
Teste James N Orr clerk.

Charles L. Hamblen
admr. &c.

vs. Robert M. Ely's
Report as Comr.

Joseph McPherson
& others

(F)

MR. Polly Hoskins — *tax in Lee County, for* 1859.

White titheables, county levy,			
Black do do			1,61
Revenue—Slaves, personal property,	$78	Capitation tax,	1 09
Salary, interest, &c.,			
Land			2,48
Road levy,			
Received the above in full,			$5.18

W. Brown D.S.

P. Hoskins

5 18
Int 1 0
5 28

P. Hoskins
Lot dwt

(B-1)

Commissioners Office Jonesville Va January 27th 1874

Polly Hoskins Pltff
vs. } In Chancery
Jos. McPhuson admr & others Defts

Notice is hereby given all persons concerned that at my office in Jonesville on the 2nd day of March 1874 I will proceed to State and adjust the account of Robert M Ely late admr of Robt Bacher deceased if deemed advisable so to do. I will then State the account of Joseph S. McPhuson admr of said R M. Ely dec'd if the same be desired by any person or deemed pertinent by myself. I will next proceed to ascertain what Sum is due Polly Hoskins if any thing from said Ely's estate, on account of the Slaves Sold by him as commissioner belonging to the estate of Joseph Bacher dec'd, & in this connection will convene the creditors if any of said R M Ely deceased at which time and place the defts Joseph S. McPhuson and all others interested are required to appear, and as to creditors they are required to produce evidence of their claims respectively.

Henry J Morgan Comr.

Polly Hoskins

vs } Notice - March 2/74

Joseph S. McPherson et al

Executed by leaving Copy of
on Jos. McPherson and
Posting one at Wheeler & Ball Store

Thos. N. Ely, D. S.

(A)

Commissioners office Jonesville Va. March 2nd 1874.

Polly Hoskins Plff.
against
Joseph S. McPherson & wife et al Defts } In Chancery

The deposition of Andrew J. Fulton taken in the above stated cause at the time of taking an account therein, & sent in the second day of March 1874 which is intended to be used at the taking of said account, and also at the final hearing thereof. And the said Fulton being duly sworn deposes and says.

I am now 50 years old, and with the exception of about 4 years, I have lived all my life in the neighborhood of where the parties, and the transactions referred to in the bill and proceedings are said to have transpired and been transacted, but being so long ago I cannot undertake to speak positively as to any particular fact, but only give my best recollection and impression as to such.

Many years ago there lived in the neighborhood of Walnut Hill and where when I was a boy lived a man by the name of Robert Boucher who was the owner of a considerable real and personal estate; among the latter were several valuable Slaves

The said Robert Boucher departed this life sometime between the years 1842 and 1847 the exact time not now remembered, and I remember the fact that one McElroy and one Joseph Boucher a Son of said Robert acted as the executors of Robert Boucher dec'd.

The said Robert Boucher it is said left six children his heirs at law to wit, Joseph, Elisha, Wm, William, Polly who intermarried with one John Hosking Pleasa, who intermarried

with one Samuel McSpadden, and Elizabeth was intermarried with one Joseph McSpadden,

The said John Hoskins departed this life many years ago but the time not exactly remembered, leaving as his widow the said Polly Hoskins formerly Polly Boucher

The said Joseph Boucher died some time between the years 1845 and 1853 but the exact time not answer remembered, and he left at his death three children his heirs at law to wit Elisha Jr. Alonzo D. and Polly who intermarried with one Branch H. M. Cole

The said Elisha Son of said Robert also departed this life sometime between the years 1855 and 1860 and he left the following children his heirs at law, or at any rate his wife had the following children, Nancy, Minerva (Min.) and Eliza Boucher,

The said John & Polly Hoskins had several children during coverture among them a Daughter by the name of Nancy who intermarried with a man by the name of Stephen Mursling

I have this day been shown a paper filed in said Suit of Elisha Boucher & Polly Hoskins plffs against Wm Boucher & others defendants, purporting to be a report of R M Ely as a commissioner therein stating the sales of the several slaves therein named, and I have examined said paper carefully, and am well acquainted with the hand writing of R M Ely dec'd, having often seen him write and sign his name, And am clearly of opinion that said paper is intirely in the proper hand writing of said Robert M. Ely deceased,

A decree in said cause directing the sale of said Slaves has just been read to me, and from it, it appears that said Slaves were directed to be sold at the court house on a court day, and I see that said R M Ely in his deposition before referred to says that said Slaves were sold to the highest bidder at the time and place mentioned in the decree or six months time. Now as a fact I remember, that said Slaves were not sold at the court house, but were sold at a Store house near said R M Ely's. But as to the place, a change may have been made in the decree touching that matter for aught I know.

As to the contents of said deposition my recollection is that the price of the negro Fanny reported as having been bought by Daniel Sellers at $675.00 was in fact $775.00 That the price of the negro boy bought by Woodson at $1265.00 was in fact only $1200.00 and that the Slave bought by Ball bought about $70.00 instead of $635.00 as Mann in said deposition, but my memory may be greatly at fault in this respect.

Not a great while before the death of Robert Beverley he called his children together and executed a deed or writing entirely revoking and annulling the former deed and made a new distribution among them of his property, and after having done so he then said to them, that he had now given them all that he intended them to have during his and the life of his wife, and that the slaves then returned by him being those subsequently sold he intended to keep to work often, and maintain him and his wife during the remainder of their lives.

I remember to have heard R M Ely talk about the sales of

said Slaves from in his hands, due and owing in part to the heirs of Robert Baucher deceased, and from the time of his conversation I thought he was under the impression that each of said heirs or their assigns were to receive an equal part of the proceeds of said Sales And I will remember to have heard him say, not a great while after he had paid to Polly Hoskins Attorney for agents to A D. Worden & Geo H. Hoskins Some $1200 or $1300 as that he wished he had not paid him so much, that he believed he had paid her more than her own and the Share of Elisha would amount to.

And further this deponent saith not

A. J. Smith.

April 17th 1874.

Stephen C. Murphy being duly Sworn deposes and Says

That on one occasion, perhaps about the year 1860 I saw an instrument of writing with the names of Robert Baucher heirs Signed thereto, which as I then understood it, was an agreement in writing among themselves in which was Set out the amount each one of them had received from the said Robert, in the way of advancements, ~~and~~ ~~[illegible]~~ I do remember however that it seemed to be a conceded point, that Elisha Baucher and Polly Hoskins had each received less than the other four (to wit) Samuel McSpadden & wife, Wm Baucher Joseph Baucher and Joseph McSpadden & wife

I On one occasion went with Polly Hoskins to the

house of Robert M Ely before he said the negroes referred to in the pleadings in this cause, and John Colson who had in his possession the article or written Statement of said heirs Shewing the amounts of each one's advancements or receipts, was sent for, and came as requested, and produced said written Statement to Mr R M Ely who thereupon proceeded to make a calculation of the amount due Polly Hoskins as shown by said paper to make her equal with the one who had received the greatest amount and by his calculation made from that paper he ascertained that there was about $900.00 due her in her own right, and that there was about $600.00 due Elisha Bracken

My present recollection is that the paper before referred to by me Showed the fact that Joseph Bracken had received from his father Robert a portion over $1500.00 that William had received about $975.00 that Samuel McSpadden's wife had received about $1350.00, that Joseph McSpadden's wife had received about $1125.00 that Elisha Bracken had received about $900.00 and Polly Hoskins about $600.00 but at this time I have no knowledge of where that written Statement is, or what has become of it, it was at the time I saw it in the hands of John Colson, nor did I see the parties whose names were thereto Sign the same or hear them agree among themselves as to how much each had received

My recollection also is that the same was written by Richard Courtney, and one or more

others, but see name of the other or others I do not recollect,

Some time before the sale of said Slaves I learned during some time or other not now remembered that Elisha Bowden and Polly Hoskins had sold to one Wm S. Martin their entire interest in the slaves afterward sold by said Ely but did not see or hear said sale made, And but a short time before said Slaves were sold, I was present and heard Polly Hoskins re-purchase from said Martin the interest formerly sold by her to him, and also the interest which said Martin acquired by his purchase from Elisha Bowden, And it was in this way that Polly Hoskins acquired the interest of Elisha Bowden in the Slaves sold by Ely under a Decree of Court,

At the interview herein referred to between Polly Hoskins & M Ely & Myself, said Ely seemed to know and recognize the fact, that Polly Hoskins was the legal owner of Elisha Bowdens interest in said Slaves as well as her own interest therein, and said he would settle with her accordingly

At the time said Polly re-purchased from said Martin her own and Elishas interest in said Slaves, She executed her note to said Martin for about $700.00 and some time afterward the said note was found in the hands of M M Ely who was Security therein, and I as the agent of said Polly subsequently at two different times paid to said Ely for said Martin the full amount due thereon, and received

On or be the first day of September
next we or either of us Bind ourselves
to William S Martin Seven hundred dollar
for Value Recved of him as wit. Our
given under Our hand and Seal this 21st
of July 1860

her
Polly + Hastings
mark
Robert N Ely

Polly Hoskins
& R. M. Ely
Note
$100.00

(No. 1)

On the 1st day of Nov 1854
Four thousand Dollars
Now due for the
Use

said note, and said Ely has this day exhibited to
part of the depositions taken and the same
is now marked Exhibit A. with an answer in this cause

And further this deponent saith not

Stephen C. Murphey

William S Martin being duly sworn deposes &
says About the 31 st day of July 1860. I sold
to Polly Hoskins the two Shares in certain Slaves
belonging to the estate of Robert Butcher deceased which
I had previously purchased of her and Elisha
Butcher and she on that day executed her note
to me for $700.00 with R M Ely as Security for the pur
chase price of the interest in said Slaves sold by me
to her, and this note was payable the first day
of September thereafter. This note is now before me
and I cannot certainly say by whom the same was
paid to me. But my impression now is that R M
Ely handed me all the money that I ever received
thereon, and I am further of the impression that
I placed the said note in the hands of said
Ely to be collected for me.

I see there is a credit on the back of said note
for $400.00 dated Nov. 13 th 1860 And that credit is
not endorsed in my hand writing and I cannot
say whose it is. I know nothing about any payments
made by Polly Hoskins or her agent or agents to said
Ely on account of said note. All I undertake to say
is that Mrs Hoskins did not herself pay me any thing
thereon nor did her agents do so as I said Ely

was Such. But for all I Know the Money which he paid me thereon may have been furnished him by her or her agent

And further this Deponent saith not

Wm J Martin

Virginia Lee County towit

The foregoing depositions of Andrew J. Fulton. Stephen C. Murphy and William D. Martin was taken before me Sworn to and Subscribed by them respectively at the time of taking an account in the cause mentioned in the caption

Henry J. Morgan com

Polly Hopkins
vs
Jos. D. McPherson etc

(13)

this article of agreement made and entered into between us the heirs of Robert Boucher Decease witnesseth that we appoint Joseph Boucher and authoris him to take charge of the farme of Robert Boucher Decst to rent out the farm and collect the rents and aply a sufficiency of the rents to the use of his mother to give her a Comfortable

[illegible] heirs we also agree that Elisha Boucher shall have the land as he wants to attend to corn oats and [illegible] and one horse and guns to work in the crop and [illegible] Elisha [illegible] is to find himself and Sam and is to attend crop and to cultivate the land in due time and in workmanlike order one to put and keep the farm in good order around the land he attends and pay over one half of the whole crop for the use of his mother and hains to be delivered and [illegible] at [illegible] Polly Hanskin [illegible] land as she can attend and is to attend the land well and pay one third of the grain for the use of her mother and Nathan to be delivered when her mother [illegible] and that one to be payed out of the rent for making and putting up any rails necessary to secure her crop and we acknowledg since agreed to settlement maid by us up to fathers death as follows to wit Samuel McSpaden recived as heir and legatee of Robert Boucher Dec'd Thirteen hundard and fifty Dollars also William Boucher nine hondard and seventy four Dollars Elisha Boucher also nine hondard Dollars also Polly Hanskin six hondard Dollars also Joseph Boucher fifteen hondard six Dllars and sixty eight cents also Joseph McSpaden twelven hondard and twenty five Dallors as witness our hand and seal this 15th Day of August 1846.

Poor Quality Original. Best Possible Capture

State Kentucky Clay County Sct:

This day William Cox personally appeared before me the undersigned a ~~Justice of the peace~~ Judge in and for Clay Clay County Kentucky and made oath in due form of law that the above ~~Agreement~~ is a true Copy of an Agreement made and entered into between the heirs of Robert Boucher deceased which he Copyed and therefore knows it to be an exact Copy of the Same. ~~Given under my hand and Seal on this~~ Sworn to before me by William This 22nd day of June 1874

B. P. White Judge Seal

Clay County Ky

Levied by R. McNeely on Abram Hunter
[illegible] of R. McNeely
belonging
to Amt of Appraisement.

$

He will also examine the Auditors of said estate and ascertain the amount of the debts due them from - also the amount of the legacies unpaid under the will of P. Randolph Nac dec'd and the debts due from his estate - He will also ascertain the value in fee of the lands which descended to the heirs of the said Charles, and also the [illegible] Rents & profits thereof. And report any other matter deemed by him pertinent & required to be stated by any of the parties. He will report to the next term of this Court and the Cause is Continued

6

The Deposition of Abraham Hunter taken at Flat Lick Post Office in Knox County Kentucky before a Justice of the peace in and for Said County on the day of 1874 to be read as evidence in behalf of Polly Hoskins in a Certain Suit in Chancery Pending in the Circuit Court of Lee County Virginia wherein the Said Polly Hoskins is plaintiff and Joseph M. Pherson admr. of R. M. Ely Decd. & others are defendants, Taken Pursuant to a notice and Commission Herewith Filed.

Abraham Hunter after being duly Sworn according to law deposes and Says That Sometime about the year 1837. or 1838 I bought a tract of Robt Boucher in Lewd County Ky for which I was to pay him four hundred dollars paid Yearly Seventy five dollars a year I think I paid Mr Boucher a horse at the time at Seventy five dollars I think I after wards paid Robert Boucher and Joseph Boucher his administrator about one hundred and thirty five dollars Sometime about the Year 1850 I think Williams Ely as he Said became Administrator of Bouchers estate Came to me with the balance of the notes

and I paid him I think the rules and Outset
On Stair was Done Thing over Two hundred
Dollars probably Two hundred and twenty Five
Dollars Further this deponent Sayeth Not

Abraham Hunter

Kentucky
Knox County to wit:

The foregoing deposition of Abraham Hunter
was duly taken Sworn to and Subscribed To
at Flat Lick Post office in Knox County
Kentucky before me the undersigned a Justice
of the peace in and for Said County & State
at the time place and for the purposes mentioned
in the Caption of this Deposition. Given under
my hand this the day of June 1874

Daniel Baker J P Knox County Kentucky

Justice Peace Ann Harlan

Polly Hoskins

vs } Defts of A. Hunter

Joseph McPherson admr &c.

This defts came to my
address Sealed the 24th
day of June 1874
Henry J. Morgan Comr.

(D)

Mr. Joseph M. C Pherson Admr. of R. M. Ely Decd and Margaret J. Ely and John B. Post Guardian ad litem of Robert M. Ely Jr.

You will please take notice that on the 19th day of June 1874 at the Flat Lick Postoffice in Knox County Kentucky I will proceed to take the Deposition of Abraham Hunter To be read as evidence in my behalf in a Certain Suit in Chancery now pending in the Circuit Court of Lee County Va. wherein I am Complainant and you are Defendants.

Polly Hoskins

Sworn to before me this 19th day June 1874. D. C. Murphy

Sworn to before and subscribed before me a Justice of the Peace for Knox County Kentucky

Daniel Baker J.P.

Sworn to before me D. C. Murphy before me the above is a true Copy of the notice given to the above mentioned party this 19th day June 1874. D. C. Murphy

I handed a true copy of this Within notice to R. Eby and margret Eby and each one at McGerrain's & wife at his house on the 17 day of June 1874

S. C. Murphey

C. L. Hamblen admr. &c. Pltff

against

The heirs of Charles Noe Defts } Decree for account.

This Cause came on this day to be heard upon the Complainants bill and exhibits therewith and the answer of the adult defendants with general exception and the answer of Amanda and Rufus C. Noe the infant defendants by John B. Watt their Guardian ad litem and was argued by Counsel on Consideration it is adjudged ordered and decreed that Henry J. Morgan a Commissioner of this Court is hereby directed and appointed to take State and Settle and adjust the administration account of the personal representative of Charles Noe deceased and to ascertain the amount and value of his real and personal estate. He will also con-

The Depositions of Thomas W. Brent
and Stephen C. Murphy
taken at the Storehouse of Wheeler
& Ball on the 15-th day of July 1874
in Lee County Va. Pursuant to a notice
herewith filed which Depositions are
intended to be read as evidence in
behalf of Polly Hoskins in a Certain
Suit in Chancery pending in the Circuit
Court of Lee County Va. wherein Polly
Hoskins who Sues for the benefit of
herself & others is plaintiff and the
administrator & widow & heir of R. M.
Ely deceased are defendants. Which
Depositions are taken by D. C. Wills
Esq. in the presence of M. S. Ball guar-
dian for R. M. Ely Jr. Deft. and David
Miller Counsel for plaintiff.

Wheeler and Ball's Storehouse Lee County
Virginia July 15-th 1874.
The taking of these depositions is post
poned until tomorrow which is July 16th 1874
D. C. Wills J. P.

Wheeler & Balls Storehouse Lee County Virginia
July 16th 1874 Met pursuant to the
above adjournment and Depositions taken
D. C. Wills J. P.

The deposition of Thomas W Brent Sworn &
Examined and Stenographed by Murphy taken before
me at Wheeler & Balls Store house in Lee County
Virginia to be read as evidence in behalf of
Polly Hoskins Plaintiff Joseph McPherson admr &
R M Ely dec'd and Margaret S Ely and M S Ball
Guardian of R M Ely Minor, Defendants
in the Chancery Circuit Court of Lee County State
of Virginia —

Thomas. W. Brent. a witness of Lawful
age. after being first sworn. deposes and says.

1st. question by Plaintiff.

Did you hire a Negro. man
by the name of Tom belonging to the Estate
of Robert Boucher Dec'd if so. state how
much you paid a year. and who you paid
it to.

answer by Witness I hired him the said Negro Tom two
years from R M Ely admr of Robert Boucher
deceased. and paid to R. M. Ely Sixty dollars
for each year. which was to the best of my
recollection in the Years. 1856 & 1857.

and further this deponent sayeth not

Thos W Brent

Stephen C. Murphy a witness of lawful age after being first duly sworn deposes and says.

question 1st. By plaintiff

Was you made agent for Polly Haskins if so state the time

Answer by witness to the best of my recollection I was made by Polly Haskins her agent in the year 1860 sometime in Octr. and after the death of Nancy Boucher.

Question 2nd

After you was appointed Polly Haskins agent please state what was the conversations and agreement between you and R. M. Ely Admr of Robert Boucher dec'd in regard of the sale of the Negroes &c.

answer by witness

after I was made Polly Haskins agent I went to R. M. Ely for a settlement and stated to Mr Ely that Mrs Haskins did not want the Slaves sold that she had Bought Elisha Bouchers part in them ~~and~~ he Mr Ely stated that he had bin making some calculations from an article that John O. Colson held stating the amount each heir had received at Robert Boucher's death. He further stated that the Slaves would have to be sold to make Polly Haskins even with the other heirs, and that it would take some Fifteen or Sixteen hundred dollars in the year 1866 to make her Polly Haskins even with the other heirs. Then my self and R. M. Ely went to the Court house and got an order from the Court to have them sold at home on ~~a~~ Six months time. the Slaves that was sold was. Delia, Mat, Millia and Child (Rosa), & Tom.

Q. State what you know about an article of agreement made and entered into between the heirs of Robert Boucher ~~dec~~ dec'd. as to how much each heir had recd. of said Bouchers estate

A. I seen the old Original Article between the heirs of Robt. Boucher dec'd shewing the amount each one had Rec'd and the names of the heirs was signed to the Article and the paper now filed marked X is a true copy of the said Original Article except there signatures is not put to the copy and the witness further states that he is informed and does believe that the original Article is lost or misplaced and can cannot be found. This Original Article is the same Artice that R. M. Ely made the calculation from aforesaid.

Cross examine by defendants

Q. in what way was the hire of this boy Thomas to be disposed of was it to be paid over to the heirs of Robert Boucher or was it to be paid over to his widow for her support

A. my understang was that the hire of Tom a slave it was to go to the support of the old lady Nancy Boucher

2 Question

dos you Know of your own Knowledg that there was and over plush of the hire of Tom after the widow death that woo not paid out for her benefit if so how match

A. if there was any I do. not recollect.

3 question

do you Recolect of Robert Ely paying over any money To Polly Hoskins for the support of Nancy Butcher

A. My Recollect is that R. M. Ely paid Polly Haskins One hundred dollars. and gave his due Bill for Sixteen dollars. which was out of the hire of Tom, for the support of the old lady Nancy Boucher

4 question

Mr Murphy pleas State how much money you have received of the Robert Butcher Estate as agent of Polly Hoskins if So when ~~and~~

A. I. Received of A. D. Woodson and George Haskins One Thousand Dollars. which they advanced to me under a written agreement made between them and me as Polly Haskins agent.

5 Question

did you ever See a correct State ment made of the Robert Butcher Estate Soo To Save correct idea of what amoant woo due Polly Hoskins

Ans. all the Statements in writing I Remember To have Seen was the one entered into between Boucher heirs and I do. not remember any other written Statement except the calculation made by R. M Ely. dec'd from the Orginal Article which calculation I saw at the time

And further this deponent Sayeth not

S. C. Murphey

Virginia Lee County to wit:

The foregoing Depositions of Thomas M Brent and Stephen C. Murphy were duly taken Sworn to and Subscribed to at Wheeler & Balls Store house in Lee County Va. on the 16th day of July 1874 pursuant to a notice herewith filed and at the time place and for the purpose mentioned in the Caption and pursuant to the postponement therein and in the presence of Moses S. Ball the Guardian of the infant Defts and David Miller Attorney for Pltff.

Given under my hand this July 16th 1874.

D. C. Ellis J. P.

Polly Hopkins
For &c.
Depositions of
vs. } J. W. Brent
& S. C. Murphy
Joseph McPherson
admr. &c. & others

(E)

Bill of Cost on these
Depositions.

Justice D.C. Willis 4 hours
taking Depositions $3.00
J.W. Brent Witness
two days $1.00
$4.00

Mr Joseph McPherson admr of R. M. Ely decd and Margaret S Ely and Mrs. S. Ball guadeau of R. M. Ely (minor) You will please take notice that on the 15th day of July 1874 at the Store House of Wheeler & Ball in Lee County Va I will proceed to take the depositions of Thomas W. Grent & others and if not completed on that day I will continue from day to day and from place to place until completed. to be red as Evidence in my behalf in a certain Suit in Chancery now pending in the Circuit Court of Lee County Va where in I am Complainant and you are defendants

Polly Hoskins

Virginia Lee County to wit:

personly appeared Steven Mountjoy before me Willis Justice of the peace and made oath that he delivered a true Copy of the within writing to the parties within named Feby 11th 1874 ....

H. C. Willis J P

cept on 8 Bail

Bail bonded entitle 16th

Lee County to wit:

Pursuant to an order of the Worshipful Court for Lee County dated 15th day of November 1847.

We Daniel Littrell Jacob Susong and John S. Willis after being duly Sworn before Hu. Houston an acting Justice of the peace &c. do proceed to value the estate of the late Robert Bucher deceased namely this 11th day of December 1847. Hu. Houston J. P.

One negro man named Thomas	$700.00
One negro woman named Milia	400.00
One old gray horse	5.00
Do	40.00
One red Cow	9.00
One red whiteface Cow	8.00
One red heifer	9.50
One Brindle Cow	8.50
One Speckled Cow	7.00
One white red necked Calf	2.00
One pided heifer Calf	2.00
One red bull Calf	1.50
One red Cow and Calf	10.00
Nine head of Stock hogs	25.00
Six fat hogs	36.00
Six head of Sheep	6.00
Three oats Stacks	15.00
Quantity of Corn Supposed about 200 bu.	50.00
Supposed about 500 Finds of fodder	2.50
An old waggon	35.00
	232.00

Two pair of drawing Chains one pair of Breech- bands three bridles and a pair of hames	$ 5.00
One pair of Stretchers & one Swingletree	1.50
Some old farming tools	3.00
One axe	1.00
Do	1.00
One pair of Stiliards	1.00
One Crosscut Saw	4.00
One raganger	.12½
One broadaxe Jack plain and Chisel	1.75
One lot of Castings and a pair of hooks	3.00
One large Kettle	4.00
Two pair of Dogirons	2.00
Two pots and one pair of hooks	2.75
One rifle gun	8.00
Do one barell and brass mountains	6.00
One Cupboard & its Contents	15.00
One old table	1.00
Two little wheels	3.00
One large wheel	1.00
The old Chest	.50
One bed and furniture and Stead	12.00
Do.	12.00
One bedstead	.50
Quantity of old pails Churns	.25
One metall Clock and case	5.00
One Sledge hammer	1.00
One large Chest and Some old barrels	2.00
One iron rod and Cutting	1.00
A Small pile of oats	2.50
	101.87½
Daniel Littarell	232.00
Jacob his x Bugong mark	333.87
J. S. Willis	

Joseph McClanahan admr. &c.
vs.
Daniel Littarell &c. Defts.
No. 3 Bills of Exchange &c.

(4)

A Copy Test John R. Gibson D.Clk

Lee County Virginia

Pursuant to an order appointing me Commissioner to Sell the Slaves belonging to the heirs of Robert Boucher decd. I proceeded according to appointment to Sell Said Slaves on the 16th day of November 1860 Viz Tom bought by Daniel Litterell for $675.00 Milly and Child by William Woodson for $1265.00 Sela a girl about 8 years old by George M. Ball for $635.00 Mattison a boy about 5 years old by David Chadwell Senr. for $505.00 which Slaves were Sold to the highest bidder at the time and place mention in the decree on 6 months time bond and Security was given by the purchasers.

February 14th 1861.

Robert M. Ely
Commissioner

675.00
1265.00
635.00
505.00
3080.00

A copy
Teste — James W Orr. Clerk.

C. L. Hamblen Admr, &c.
& others

vs. Copy of Report

Joseph McClung Admr &c.
& others

(A)

(B)

First Statement

R M Ely received for Sale of said Slaves						3080	00
His com of 5 per cent on first 300 ff & 2 per cent on residue is						70	60
Nett Sum to be accounted for with int from May 16 1861.						3010	40
Joseph Butchins received of his father a greater Sum than either of the others.	1506	68					
Samuel McSpadden received $1350.00							
with to be paid him by Ely	156.68	1506	68	156	68		
Joseph McSpadden received	1193.00						
with to be paid him by Ely	381.68	1506	68	381	68		
William Butchins received	975.00						
with due him from Ely	531.68	1506	68	531	68		
Elisha Butchins received	900.00						
with due him from Ely	606.68	1506	68	606	68		
Polly Hoskins received	600.00						
with due her from Ely	906.68	1506	68	906	68	2583	40
Nett Sum in Elys hands after equalizing the Shares -						427	00
Joseph Butchins Share thereof is				71	16⅔		
Saml McSpaddens " " is				71	16⅔		
Joseph McSpaddens " " is				71	16⅔		
William Butchins " " is				71	16⅔		
Elisha Butchins " " is				71	16⅔		
Polly Hoskins " " is				71	16⅔	427	00

For further Statement See next Page.

Second Statements.

Nett Sum in R M Elys Hands to be accounted for					3010	40
To be paid Jos. Butchers heirs Their share of said Excp			71	16⅔		
To be paid Saml M.Spadden to make his equal	136	68				
" " " Same his share of the excp	71	16⅔	227	84⅓		
To be paid Jos. M.Spadden to make equal with Jos	381	68				
" " " Same his share of the excp	71	16⅔	452	84⅓		
To be paid Wm Butcher to make equal with Jos	531	68				
" " " Same his share of the excp	71	16⅔	602	84⅓		
To be paid Elisha Butcher to make equal to Jos	606	68				
" " " Same his share of the excp	71	16⅔	677	84⅓		
To be paid Polly Hoskins to make equal with Jos	906	68				
" " " Same her share of the excp	71	16⅔	977	84⅓	3010	40

Statement No 3

To this Sum in R M Elys Hands due heirs of Joseph Butcher					71	16
By this Sum purchased by Wm Polly for Alonzo Shute			23	72		
Amt yet due Elisha Jr			23	72		
" " " Mary Coles 2 Children			23	72	71	16

Statement No 4

This Sum in Elys hands due Polly in her own right					677	84
" " " " " " Same in Elisha's right					977	84
					1655	68
By this Sum paid Hodson & Hoskins ayrs agents			1296	62		
" " " " Ayrs Taxes for 1859			5	19		
Amount yet due Polly with interest from 1st May 1860			353	87	1655	68

Statement No 5

Nett Sum in R M Elys hands for distribution				3010	40
By this Sum for W S Elys purchase from Saml M.Spadden ayrs	227	84⅓			
" " " " " " " Elonzo D. Inst	23	72			
" " " paid Hodson & Hoskins for Polly Hoskins	1296	62½			
" " " " Taxes for Polly Hoskins	5	19	1563	38	
Bal yet in Elys hands to be paid out			1447	02	
Of which Elisha Son of Jos is entitled to	23	72⅓			
" " Mary Coles 2 children is entitled to	23	72⅓			
" " Joseph M.Spadden's wife are " "	452	84⅓			
" " William Butcher is " "	602	84⅓			
" " Polly Hoskins in her own right & in right of Elisha Jr as Shown in Statement No 4 Sum	353	87⅓	1447	02	

Statement No 6.

Polly Hoskins To R M Ely				25
To this Sum paid Taxes for ayrs for 1859				5 19
" " " " Hodson & Hoskins ayrs agents for ayrs				1296 62
Total amt debits this Sum				1301 81
By 1/6 part of Slaves in ayrs own right	501	76		
By 1/6 " " " in right of Elisha Butcher	501	76		
By this Sum overpaid ayrs to 2 years	298	29	1301	81

Polly Hoskins

Statement of Commissioners
account

vs

R M Elys Estate

(A)

I Elonzo D Boucher of the County of Clay and State of Kentucky for and in consideration of the sum of Fifteen dollars to me in hand paid the receipt whereof is hereby acknowledged have this day bargained and sold unto William S Ely of the County of Lee and State of Virginia all my undivided intrest in and to the estate of Robert Boucher deceased and his widow Nancy Boucher Consisting of debts claims personal property and all personal estate belonging in any wise to said estate or that may hereafter become due or belong to the said estate And especially to five negros slaves for life towit Milly a woman Yellow Color aged about twenty three years and two of Millys children Celia and Mat. Celia being about five years old Mat being about three years old Yellow Color and Thomas aged about forty three years old black Color and Warrick aged about fifty years old Yellow Color being all my undivided intrest in all the negros which descended to the heirs of Robert Boucher Dec^d except Celia and Mat which were born since the death of the said Robert Boucher Dec^d And I the said Elonzo D Boucher hereby warrant the said slaves above described to the said William S Ely his heirs and assigns forever and against the lawfull claims of all persons whatsoever and I also warrant the said slaves to be slaves for life. In testimony whereof the said Elonzo D. Boucher hath hereunto set his hand and seal this 16th day of March A D 1859

E D Boucher (Seal)

Test
Robert his x Ball mark
Robert M^cH Ely
John A his x Rollins mark

Wm. S. Ely

From } Bill of Sale

E. D. Bouchus

(1)

Know all men by these presents that I Samuel
McSpaden as the true and lawfully attorny in
fact for Phebe McSpaden of the County of Loroun
in the State of Georgia who was made ordained
and appointed by the said Phoby as the 11th day of
as her true and lawfull attorny in fact
September 1857 for and in Consideration of
the sum of One hundred and fifty dollars to me
in hand paid the receipt whereof is herby acknowledged
[illegible] have this day bargained sold granted and
Confirmed to [illegible] William S Ely of the County Virginia
all the right title and claim that the said Phebe
McSpaden had to her father (Robert Bourbin)
estate at his death or at this time. And particu-
= larly to all the negros that belonged to the estate
of the said Robert Bourbin at his death or at
this time, And to all the right title and claim
that the the said Phoby may now have in the estate
of her said father both real and personal of what
Kind soever, and also to all the right title and
claim the said Phoby may now or hereafter have
to her mother (Nancy Bourbin) dower in the esta-
= te in the said Robert Bourbin. And I the said
Samuel McSpaden as the attorny in fact for
the said Phoby McSpaden do warrant and
to the estate above Conveyed
will forever defend all the right title and claim
above Conveyed [illegible] to the said William
S Ely and his heirs forever in Witness Whereof I
the said Samuel McSpaden have hereunto set my
hand and affixed my seal and the signature and seal
of the said Phoby McSpaden and this 24th day of Septemb
= er A D 1857

Phoby McSpaden (seal)

By Samuel McSpaden (seal)

The true and lawfully attorny in fact

Wm. S. Ely

From { Bill of Sale

Phebe M. Spadue

(f)

Memorandum of An agreement made this 4th day of August 1854 between Polly Hoskins of Lee County in Virginia and Elisha Butcher of Claiborne County in Tennessee of the one part, and William S. Martin of the said County of Lee of the other part. The said Polly Hoskins & Elisha Butcher in consideration of the Sum of Two hundred dollars now to them in hand paid or secured to be paid have bargained and sold, and do hereby bargain and sell to the said Martin all their right title claim and interest in and to three certain negro Slaves named Tom, Milly and Milly's child named Lily which slaves are now held for life by the Mother of said Polly Hoskins and Butcher being a part of the Slaves which belonged to the estate of Roberts Butcher deceased. The interest of the said Hoskins and Butcher being shares of heirs of said Roberts Butcher who will be entitled to their distributive Share of one Sixth each at least, on the death of their said Mother. And it is further agreed between the said parties that if upon a Settlement and distribution of the said estate, or interest in the said named Slaves, shall be allotted to them or either of them greater than the aforesaid One Sixth part each, the said Martin binds himself to pay to the said Hoskins and Butcher or such of them as may be entitled by such increased allotments in addition to the above named sum, Such further Sum of Money as will be a just proportion to such increased interests

Witness our hands and seals the date before written

(Signed) Elisha Butcher (Seal)

Witness (") Polly her + mark Hoskins (Seal)

Jno. Crabtree (") Wm. S. Martin (Seal)

Polly Hoskins & Elisha Butcher

Copy of Contract & certificate

Wm S Martin

(K)

Know all Men by These presents that
I have this 20 day sold my entire Interest
in the slaves purchased by Wm of Elisha
Boucher & Polly Hoskins being the slaves
belonging to the Estate of Robert
Boucher deceased She the said Polly
Hoskins binds herself to pay the said Elisha
Boucher anything that may be due
from me to the said Boucher
July 20th 1850

Wm Hoskins

Polly Hoskins

From Bill of Sale

3

Wm D. Martin

(2)

Recevved of Robert M. Ely adm'istrador of Robert Boucher dcsd twelve hundrd and ninety six dolars and sixty two and half cents it being a part of the estate of Robert Boucher partable in the hands of Robert M Ely who was appointed by the county Court of said county as commissioner to sell the negroes of said Boucher estate This 18th October 1861

Paley Hoskins
By their agent
G. W. Hoskins
A. D. Woodson

Joshua Ewing

Know all men by these presents that we George W Hoskins and Andrew D Woodson have this day recevd of Robert M Ely adm'istrator of Robert Boucher twelve hundred and ninety six dolars and sixty two and half cents as agents of Paley Hoskins and Elisha Boucher heirs of Robert Boucher decsd and the said George W Hoskins and Andrew D Woodson agrees and binds themselves as soon as the estate of Robert Boucher is liquidated if the amount recevd by them is ~~more~~ less than twelve hundred and ninety six dolars and sixty two cts they will pay back to M Ely the amount recevd more than the amount adjudged to Paley Hoskins and Elisha Boucher as their heirs of their children for which they have receipted their receipt This 18th October 1861

G. W. Hoskins
A. D. Woodson

Joshua Ewing

Hawkins and Maddens Dept

(11)

(6 1)

Nett proceeds of Sale in Elys Hands			3010 40
Josiah Butchins heirs Share thereof is	501	76⅔	
Sam[l] Mc Spaddentrifes " " " "	501	76⅔	
Josiah Mc Spaddentrifes " " "	501	76⅔	
William Butchins " " "	501	76⅔	
Elisha Butchins " " "	501	76⅔	
Polly Hoskins " " "	501	76⅔	3010 40
Nett proceeds of Sale			3010 40
By M[r] Elys purchase of Elmys interest	167	25	
By " " " S. Mc Spaddens Int[t]	501	76	
By amt paid Hodson & Hoskins for Polly Hoskins	1296	62	
By this sum paid Taxes for Polly Hoskins	5	19	1970 82
Leaving this Sum yet for distribution			1039 58
To that sum add the amount to be refunded by the Pefs			298 38
Making this Sum to be distributed as follows			1337 96
To Elisha Butchins son of Josiah	167	25	
" Mary Coles 2[d] children	167	25	
" Josiahs Mc Spaddentrufs	501	76⅔	
" William Butcher	501	76⅔	1337 96

Statement of accts

(No)

Robert M. Ely Jr. et Als. vs ? Incha.
Charles L. Hamblin admr &c Plffs

The defendants, say the plffs should not have and maintain their said bill aforesaid. Because they say that heretofore to wit on the day of 1852. Here came plaintiffs Polly Hopkins and Elisha Bunker, filed in the County Court, their certain bill in chancery praying among other things to have certain slaves in which they claimed an interest, sold, and which was by a decree rendered therein, appointing Robert M. Ely Jr. a commissioner, sold & the sale thereof reported therein - And these slaves thus sold are the same & the sale and collection of the proceeds thereof of which the plffs in this cause complain - and defendant, avers that this said cause was afterwards to wit on the day of April 1871. removed to this Honorable Court, where the same is now pending, and the same matters whereof the plffs in this bill complain, are therein sought to be and can properly be adjudicated between all the parties in interest, and this he is ready to verify, wherefore they pray that the plffs bill be dismissed &c.

Hagan & Richmond

R. M. Ely Jr. et als

vs

C. L. Hamblin et al

Virginia,

At a court of quarter session continued and held for Lee County, at the court house thereof on Saturday the 23rd day of Nov. 1872.

Charles L. Hamblen Admr &c & others Plaintiffs

vs

Joseph McPherson &c & others Defendants

} In Chancery

On motion of the plaintiffs by their attorney, John B. West was appointed guardian ad litem to appear answer and defend in the cause for Robert M. Ely, the infant defendant, who asked leave to file his answer which being granted the same was accordingly filed, and thereupon this cause came on this day to be heard, upon the bill of the plaintiff and exhibits therewith, and the demurrer thereto, and the answer of John B. West guardian ad litem for the infant defendant, and was argued by counsel, and on consideration of all which it is adjudged ordered and decreed that the demurrer aforesaid be overruled, and leave is granted Joseph McPherson and Margaret Ely to file their answers hereafter; and it appearing necessary that an account should be taken in this cause of the several matters in the bill mentioned, in order to ascertain the facts necessary upon which to found a final decree: It is therefore adjudged ordered and decreed that James B. Lovelston be and is hereby appointed a special commissioner for the purpose, who is hereby directed in the first place to take state and adjust the Administration account of Robert M. Ely late Administrator of the Estate of Robert Boucher deceased including therein the price of the sales of the negro slaves referred to in complainants' bill, and in doing so, he will ascertain and show the various sums of money and personal property that went into his hands as such Administrator

cuted commissioner for the sale of the negro slaves and also the amount of his disbursements Admr & commissioner, and the amount of funds in his hands yet to be distributed if any. Then he will state and adjust the administration account of Joseph McPherson Administrator of the Estate of Robert M. Ely dec'd and in the third place he will ascertain the amt standing debts due from the Estate of Robert M. Ely dec'd to such persons as will make written affidavits of the justice of their claims, and establish the same by other legitimate evidence, and will come in and bear their share of the costs reasonably of this suit. The said commissioner will give 20 days notice by posting the same, of the time and place of taking his account, and will report to this court. and the cause is continued.

A Copy.

Test- Jennie W. Alexander Clerk

L. L. Hamblen Admr &c et als
vs
Joseph McPherson Admr &c et als
} Copy of Order of Court

Executed by delivering a true copy to C B Colton said Colton not Wife on 21 of found at home Dec 1872

L. A. Woodard D.S.
for C. L. Hamblen S.C.C.

L. L. Hamblen Admr &c et als
vs
Joseph McPherson Admr &c et als
} Copy of order of court

This article of agreement &c. between Boucher's heirs showing how much each has received.

Samuel Mc Spadden	$135-0. +
Wm. Boucher	975. +
Elisha Boucher	900.
Polly Hoskins	600.
Joseph Boucher	15-06.68+
Joseph Mc Spadden	1125. +

Polly Hopkins

vs. How much each received

Elys admr & heirs

Oct 12 1847	Saml & Phaeba McSpadden	Conveys	to R M Ely one Sixth of two tracts
April 18 1853	Jos McSpadden & wife	Elizabeth "	" W. S Ely " " " " "
Oct 22 1851	Elonzo D. Butcher & wife	conveyed 2/3 of one Sixth to Wm S. Ely	
Aug 30th 1851	Elisha Butcher jr	" 1/3 " " " " " " "	
Jan 25 1851	B H M. Cole & wife	"	
May 15th 1853	Wm Butcher & wife	conveyed to W S. Ely one Sixth of 2 tracts	
Feb 27 1854	Elisha Butcher Sr & wife	" " Same " " " 2 tracts	
Jan 21 1854	Polly Hoskins	" " " 1/6 of 2 tracts	

Know all men by these presents that We Samuel M Spaden and Phebe his wife of the County of Gordon in the State of Georgia have made Ordained Constituted and appointed and by these presents do make Ordain Constitute and appoint William Selby of Lee County Virginia Our true and lawfull Attorney for us and in our name but to Our use and to ask demand sue for recover and receive, all Moneys Land property goods and Chattles that is now due or may hereafter become due to us as the heirs at law of Robert Boucher Deceased from the administrator of the said Robert Boucher or any one having the Care Management or possession of the estate of the said Robert Boucher Decd. And for the nonpayment of the same or any part thereof to demand sue for recover and receive the same. And upon the payment of the said legacy or any part thereof for us and in our name to give acquittances and discharges for the same. And the Moneys goods or Chattles so by him received immidiately thereupon to pay over to us or either of us or our representatives Or to our order or either of our Order. And further to do and execute all and every other lawfull act and acts needfull for recovering receiving & obtaining of said Moneys goods or Chattles from the administrator of the estate of the said Robert Boucher Decd or any one having Care management or possession of the said estate or any part thereof, but to our use as aforsaid, as fully and effectually to all intents and purposes as if we were personally present Hereby ratifying and confirming whatsoever our said Attorney shall Lawfully do or cause to be done in or about said estate

In Witness whereof we the said Samuel McSpaden and Phebe McSpaden his wife hath hereunto set their hands and affixed their seals this the 13th day of September A D 1854

Samuel McSpaden (Seal)

Phebe McSpaden (Seal)

Be it Known that on the 13th day of September A.D 1854
before me Came Samuel M.c Spaden above named
and acknowledged the above letter or power of attorney
to be his act and deed. In testimony whereof I have
hereunto set my hand and seal as a Justice of the Peace
for the County of Lee in the State of Virginia, the day
and last aforesaid

Robert M.c Ely J.P. [Seal]

Wm S. Ely

From

Pow atty

Sam'l M. Spaden

Virginia

At a Court of quarter-sessions continued & held for Lee County, at the Court House thereof, on Tuesday, March 20th 1871.

Elisha Boucher & Polly Hoskins ..... Pltff
against
William Boucher et al ..... Deft
} In Chancery.

Upon motion this cause was placed upon the Docketts, and came on again to be heard upon the papers formerly read in the cause, and the petition of Mary A. Ball, Extx of George W. Ball, and was argued by Counsel. Upon consideration whereof, It is adjudged, ordered, and decreed that the said Mary A. Ball, Extx &c. be made a party defendant in this cause for the purposes set forth in her petition, and that the Pltffs appear here at the next term of the County Court of this County, to shew cause, if any they can, why the sale and Report of Robert M. Ely - Commissioner in said cause to sell the slaves in the Pltffs' Bill mentioned, should not be set aside, and the report rejected and annulled so far as said sale & report relates to a slave reported therein as being purchased by George W. Ball, now decd, and his estate and personal representative be absolved from all liability on account of said reported purchase by him, and that a copy of this order be served upon the said Pltffs, and the cause is continued till the next term.

Teste. John B. West. D. Clk.

A copy. Teste. John B. West. D. Clk.

Polly Hoskins

The Commonwealth of Virginia

To the Sheriff of Lee County Greeting

You will Summon Jos B Crabtree James B Colson and Andrew J. Fulton to appear before me at my office in Jonesville on the 2nd day of March 1874. to give evidence in relation to a matter of dispute between Polly Hopkins Pltff and Joseph McPherson dfendants, and then and there have this Summons

Henry J. Morgan Comr

Sally Hoskins

vs } Spa March 2/74

Jos S. McPherson et al

Executed by
Summons
H B Colson
J. B. Coalter and
A. J. Talbot
Ths McG. D.

Lee County Towit

Summon Wm S. Martin to appear at my office in Jonesville on the 14th of Aug 1874 to give evidence in the case of Polly Hoskins vs. Joseph McPherson Admr &c

To the Shff or any Constable of Lee County

Henry J Morgan Clerk
Aug 14th 1874

Polly Hoskins

vs } Sfa

Jas McPhusonetal

Executed By

E. Anderson et

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY...GREETING:

WE COMMAND YOU TO SUMMON Joseph McSheran Administrator with the will annexed of the estate of Robert M. Ely deceased and Margaret Ely widow of Robert M. Ely decd and Robert M. Ely Jr.

to appear before the Judge of our County Court of Lee county, at the Court-House, in the Clerk's Office, at Rules to be holden for said Court, on the first Monday in January next to answer a bill in Chancery, exhibited in our said Court against them by Charles L. Hamblen Sheriff of Lee County Va. and as such administrator of the estate of Robert Boucher deceased and Polly Haskins creditors of the estate of Robert M. Ely deceased who sue for the benefit of themselves and all other creditors of the estate of Robert M. Ely deceased

And have then there this writ. Witness, ***JAMES W. ORR,*** Clerk of our said Court, at the Court-House, this 23rd day of December, 1871., in the 96th year of the Commonwealth.

Teste John B. Heard D., **CLERK.**

Chas L. Hamblen Admr &c.
& others

vs.

Jos. McPherson, Admr &c &
others.

January Rules 1872.

Executed By Delivering
a true Copy of the within
Summons to J. L. McPherson
Margret Ely R. M. Ely Jr
December 28th 1871
Levi N. Hotchkiss D.S.
For
C. L. Hamlin, S.T.C.